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# TREATIES AND AGREEMENTS AFFECTING CANADA

IN FORCE BETWEEN

HIS MAJESTY AND THE UNITED STATES

OF AMERICA

WITH SUBSIDIARY DOCUMENTS

1814-1913

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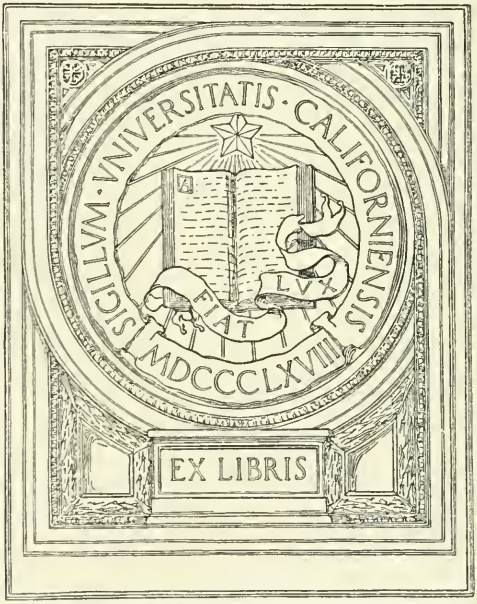

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# TREATIES AND AGREEMENTS AFFECTING CANADA

IN FORCE BETWEEN

# HIS MAJESTY AND THE UNITED STATES OF AMERICA

## WITH SUBSIDIARY DOCUMENTS

## 1814-1913

*Compiled under the direction of the*
*Right Honourable Sir Robert Borden, G.C.M.G.,*
*Secretary of State for External Affairs.*

OTTAWA
PRINTED BY J. DE L. TACHÉ, PRINTER TO HIS MOST EXCELLENT MAJESTY THE KING
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## NOTE.

Attention may be drawn to the view of the British Government as to the effect of the war with the United States of 1812-14 upon previously existing Treaties between the two countries, declared by Earl Bathurst, His Majesty's Principal Secretary of State for Foreign Affairs in a note addressed to Mr. John Quincy Adams, the United States Minister in London, on the 30th October, 1815.

The United States in that year having supported a pretension for their citizens to continue the enjoyment of fishing privileges within British sovereignty conferred by the Treaty of 1783 on the ground that that Treaty was of a peculiar character and could not be abrogated by a subsequent war between the parties, Lord Bathurst in repudiating the pretension employed the following language:—

*"To a position of this novel nature Great Britain cannot accede. She knows of no exception to the rule that all Treaties are put an end to by a subsequent War between the same Parties."*

[See British and Foreign State Papers, Vol. 7, p. 94.]

## 1814

## TREATY OF PEACE AND AMITY, BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA.[1]

SIGNED AT GHENT, THE 24TH DECEMBER, 1814.

*(Ratifications exchanged 17 February, 1815.)*

His Britannic Majesty and The United States of America, desirous of terminating the War which has unhappily subsisted between the two Countries, and of restoring, upon principles of perfect reciprocity, peace, friendship, and good understanding between them, have for that purpose appointed their respective Plenipotentiaries, that is to say:

His Britannic Majesty, on his part, has appointed the Right Hon. James Lord Gambier, late Admiral of the White, now Admiral of the Red Squadron of His Majesty's fleet; Henry Goulburn, Esquire, a member of the Imperial Parliament, and Under Secretary of State; and William Adams, Esquire, Doctor of Civil Laws;

And the President of the United States, by and with the advice and consent of the Senate thereof, has appointed John Quincy Adams, James A. Bayard, Henry Clay, Jonathan Russell, and Albert Gallatin, citizens of the United States;

Who, after a reciprocal communication of their respective Full Powers, have agreed upon the following Articles:

Article I. There shall be a firm and universal Peace between His Britannic Majesty and the United States, and between their respective Countries, Territories, Cities, Towns and People of every degree, without exception of Places or Persons. All hostilities, both by sea and land, shall cease as soon as this Treaty shall have been ratified by both parties, as hereinafter mentioned. All Territory, Places and Possessions whatsoever taken by either party from the other during the War, or which may be taken after the signing of this Treaty, excepting only the Islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the Artillery or other public property originally captured in the said Forts or Places, and which shall remain therein upon

[1] From British & Foreign State Papers, Vol. 2, p. 357.

the exchange of the Ratifications of this Treaty, or any Slaves or other private property. And all Archives, Records, Deeds and Papers, either of a public nature, or belonging to private Persons, which, in the course of the War, may have fallen into the hands of the Officers of either Party, shall be, as far as may be practicable, forthwith restored and delivered to the proper Authorities and Persons to whom they respectively belong. Such of the islands in the Bay of Passamaquoddy as are claimed by both Parties, shall remain in the possession of the Party in whose occupation they may be at the time of the exchange of the Ratifications of this Treaty, until the decision respecting the title to the said Islands, shall have been made in conformity with the IVth Article of this Treaty. No disposition made by this Treaty, as to such possession of the Islands and Territories claimed by both Parties, shall, in any manner whatever, be construed to affect the right of either.

II. Immediately after the Ratifications of this Treaty by both Parties, as hereinafter mentioned, orders shall be sent to the Armies, Squadrons, Officers, Subjects, and Citizens of the two Powers, to cease from all hostilities. And to prevent all causes of complaint which might arise on account of the prizes which may be taken at sea after the said Ratifications of this Treaty, it is reciprocally agreed, that all Vessels and effects which may be taken after the space of 12 days from the said Ratifications, upon all parts of the coast of North America, from the latitude of 23 degrees North, to the latitude of 50 degrees North, and as far eastward in the Atlantic Ocean as the 36th degree of West longitude from the meridian of Greenwich, shall be restored on each side; that the time shall be 30 days in all other parts of the Atlantic Ocean, North of the Equinoxial line or equator, and the same time for the British and Irish Channels, for the Gulf of Mexico, and all parts of the West Indies; 40 days for the North Seas, for the Baltic, and for all parts of the Mediterranean; 60 days for the Atlantic Ocean, South of the Equator, as far as the latitude of the Cape of Good Hope; 90 days for every other part of the World, south of the Equator; and 120 days for all other parts of the World, without exception.

III. All Prisoners of War taken on either side, as well by land as by sea, shall be restored as soon as practicable after the Ratifications of this Treaty, as hereinafter mentioned, on their

paying the debts which they may have contracted during their captivity. The two Contracting Parties respectively engage to discharge, in specie, the advances which may have been made by the other for the sustenance and maintenance of such Prisoners.

IV. Whereas it was stipulated by the IInd Article in the Treaty of Peace, of 1783,* between His Britannic Majesty and the United States of America, that the boundary of The United States should comprehend all Islands within 20 leagues of any part of the shores of The United States, and lying between Lines to be drawn due East from the points where the aforesaid Boundaries, between Nova Scotia, on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy, and the Atlantic Ocean, excepting such Islands as now are, or heretofore have been, within the limits of Nova Scotia; and whereas the several Islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Manan in the said Bay of Fundy, are claimed by the United States, as being comprehended within their aforesaid Boundaries, which said Islands are claimed as belonging to His Britannic Majesty, as having been at the time of, and previous to the aforesaid Treaty of 1783, within the limits of the Province of Nova Scotia.

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* (EXTRACT.)—*Definitive Treaty of Peace between Great Britain and the United States.—Paris, 3rd September, 1783.*

Article II. And that all disputes which might arise in future on the Subject of the Boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz., from the northwest angle of Nova Scotia, viz., that angle which is formed by a line drawn due north, from the source of St. Croix river to the highlands, along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north westernmost head of Connecticut river; thence down along the middle of that river to the 45th degree of north latitude; from thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraquy; thence along the middle of said river into Lake Ontario; through the middle of said lake, until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie; through the middle of said lake, until it arrives at the water-communication between that lake and Lake Huron; thence along the middle of said water-communication into the Lake Huron; thence through the middle of said lake to the water-communication between that lake and Lake Superior; thence through Lake Superior, northward of the Isles Royal and Phelipeaux, to the Long lake; thence through the middle of said Long lake, and the water-communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most northwestern point thereof, and from thence on a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi; until it shall intersect the northernmost part of

In order, therefore, finally to decide upon these Claims it is agreed that they shall be referred to two Commissioners, to be appointed in the following manner, viz: One Commissioner shall be appointed by His Britannic Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said two Commissioners so appointed, shall be sworn impartially to examine and decide upon the said Claims according to such evidence as shall be laid before them on the part of His Britannic Majesty and of the United States respectively.

The said Commissioners shall meet at St. Andrews, in the Province of New Brunswick, and shall have power to adjourn to such other Place or Places as they shall think fit. The said Commissioners shall, by a Declaration or Report under their hands and seals, decide to which of the two Contracting Parties, the several Islands aforesaid do respectively belong, in conformity with the true intent of the said Treaty of Peace of 1783; and if the said Commissioners shall agree in their decision, both Parties shall consider such decision as final and conclusive.

It is further agreed, that in the event of the two Commissioners differing upon all or any of the matters so referred to them, or in the event of both or either of the said Commissioners refusing, or declining, or wilfully omitting to act as such, they shall make jointly or separately, a Report or Reports, as well to the Government of His Britannic Majesty as to that of the United States stating, in detail, the points on which they differ and the grounds upon which their respective opinions have been formed, or the grounds upon which they or either of them, have so refused, declined, or omitted to act.

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the 31st degree of north latitude:—South, by a line to be drawn due east from the determination of the line last mentioned, in the latitude of 31 degrees north of the equator, to the middle of the River Apalachicola or Catahouche; thence along the middle thereof to its junction with the Flint river; thence strait to the head of St. Marys river, and thence down along the middle of St. Marys river to the Atlantic Ocean:—East, by line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source; and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence; comprehending all islands within 20 leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy, and the Atlantic Ocean; excepting such islands as now are, or heretofore have been, within the limits of the said province of Nova Scotia.

And His Britannic Majesty and the Government of the United States hereby agree to refer the report or reports of the said Commissioners to some friendly Sovereign or State, to be then named for that purpose, and who shall be requested to decide on the differences which may be stated in the said Report or Reports, or upon the Report of one Commissioner, together with the grounds upon which the other Commissioner shall have refused, declined, or omitted to act, as the case may be.

And if the Commissioner so refusing, declining, or omitting to act, shall also wilfully omit to state the grounds upon which he has so done, in such manner that the said statement may be referred to such Friendly Sovereign or State, together with the Report of such other Commissioner, then such Sovereign or State shall decide, *ex parte*, upon the said Report alone. And His Britannic Majesty and the Government of the United States engage to consider the decision of such Friendly Sovereign or State to be final and conclusive on all the matters so referred.

V. Whereas neither that point of the Highlands lying due North from the source of the River St. Croix, and designated in the former Treaty of Peace* between the two Powers, as the Northwest Angle of Nova Scotia, nor the North-Westernmost head of the Connecticut River, has yet been ascertained: and whereas that part of the Boundary Line between the Dominions of the two Powers, which extends from the source of the River St. Croix, directly North to the above-mentioned Northwest Angle of Nova Scotia, thence along the said Highlands which divide those Rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the North-Westernmost head of Connecticut River, thence down along the middle of that River to the 45th degree of North Latitude, thence by a line due West on said Latitude, until it strikes the River Iroquois or Cataraquy, has not yet been surveyed; it is agreed, that for these several purposes two Commissioners shall be appointed, sworn and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding Article unless otherwise specified in the present Article.

The said Commissioners shall meet at St. Andrews, in the Province of New Brunswick, and shall have power to adjourn to such other Place or Places, as they shall think fit. The said

* See extract, page 9.

Commissioners shall have power to ascertain and determine the points above-mentioned, in conformity with the provisions of the said Treaty of Peace of 1783, and shall cause the boundary aforesaid, from the source of the River St. Croix to the River Iroquois or Cataraquy, to be surveyed and marked, according to the said provisions. The said Commissioners shall make a Map of the said Boundary, and annex to it a declaration, under their Hands and Seals, certifying it to be the true Map of the said Boundary, and particularizing the Latitude and Longitude of the Northwest Angle of Nova Scotia, of the North-Western-most head of Connecticut River, and of such other points of the said Boundary, as they may deem proper.

And both Parties agree to consider such Map and Declaration as finally and conclusively fixing the said Boundary. And in the event of the said two Commissioners differing, or both, or either of them refusing, declining, or wilfully omitting to act, such Reports, Declarations, or Statements, shall be made by them, or either of them, and such reference to a Friendly Sovereign or State shall be made, in all respects, as in the latter part of the IVth Article is contained, and in as full a manner as if the same was herein repeated.

VI. Whereas, by the former Treaty of Peace, that portion of the Boundary of the United States, from the point where the 45th degree of North Latitude strikes the River Iroquois or Cataraquy to the Lake Superior, was declared to be "along the middle of said River into Lake Ontario, through the middle of said Lake, until it strikes the communication by water between that Lake and Lake Erie, thence along the middle of said communication into Lake Erie, through the middle of said Lake, until it arrives at the Water-communication into the Lake Huron; thence through the middle of said Lake to the Water-communication between that Lake and Lake Superior." And whereas doubts have arisen what was the middle of the said River, Lakes and Water-communications, and whether certain Islands lying in the same were within the Dominions of His Britannic Majesty, or of the United States. In order, therefore, finally to decide these doubts, they shall be referred to two Commissioners, to be appointed, sworn, and authorized to act exactly in the manner directed, with respect to those mentioned in the next preceding Article, unless otherwise specified in this present Article.

The said Commissioners shall meet, in the first instance, at Albany, in the State of New York,and shall have power to adjourn to such other Place or Places as they shall think fit; the

said Commissioners shall, by a Report or Declaration, under their Hands and Seals, designate the Boundary through the said River, Lakes, and Water-communications, and decide to which of the two Contracting Parties the several Islands lying within the said River, Lakes, and Water-communications, do respectively belong, in conformity with the true intent of the said Treaty of 1783.* And both Parties agree to consider such designation and decision as final and conclusive. And in the event of the said two Commissioners differing, or both, or either of them refusing, declining, or wilfully omitting to act, such Reports, Declarations, or Statements, shall be made by them, or either of them, and such reference to a Friendly Sovereign or State, shall be made in all respects as in the latter part of the IVth Article is contained, and in as full a manner as if the same was herein repeated.

VII. It is further agreed that the said two last-mentioned Commissioners, after they shall have executed the duties assigned to them in the preceding Article, shall be, and they are hereby authorized, upon their Oaths, impartially to fix and determine, according to the true intent of the said Treaty of Peace of 1783, that part of the Boundary between the Dominions of the two Powers, which extends from the Water-communication between Lake Huron and Lake Superior, to the most North-western point of the Lake of the Woods, to decide to which of the two Parties the several Islands lying in the Lakes, Water-communications and Rivers forming the said Boundary, do respectively belong, in conformity with the true intent of the said Treaty of Peace of 1783; and to cause such parts of the said Boundary, as require it, to be surveyed and marked.

The said Commissioners shall, by a Report or Declaration, under their Hands and Seals, designate the Boundary aforesaid, state their decision on the points thus referred to them, and particularize the Latitude and Longitude of the most North-western point of the Lake of the Woods, and of such other parts of the said Boundary as they may deem proper. And both Parties agree to consider such designation and decision as final and conclusive. And in the event of the said two Commissioners differing, or both, or either of them refusing, declining, or wilfully omitting to act, such Reports, Declarations, or Statements shall be made by them, or either of them, and such reference to a Friendly Sovereign or State, shall be made in all

* See extract, page 9.

respects as in the latter part of the IVth Article is contained, and in as full a manner as if the same was herein repeated.

VIII. The several Boards of two Commissioners, mentioned in the four preceding Articles, shall respectively have power to appoint a Secretary, and to employ such Surveyors, or other Persons, as they shall judge necessary. Duplicates of all their respective Reports, Declarations, Statements, and Decisions, and of their Accounts, and of the Journal of their Proceedings, shall be delivered by them to the Agents of His Britannic Majesty, and to the Agents of The United States, who may be respectively appointed and authorized to manage the business on behalf of their respective Governments.

The said Commissioners shall be respectively paid in such manner as shall be agreed between the two Contracting Parties, such agreement being to be settled at the time of the exchange of the Ratifications of this Treaty. And all other expenses attending the said Commissioners, shall be defrayed equally by the two Parties. And in the case of death, sickness, resignation, or necessary absence, the place of every such Commissioner respectively, shall be supplied in the same manner as such Commissioner was first appointed, and the new Commissioner shall take the same Oath or Affirmation, and do the same duties.

It is further agreed, between the two Contracting Parties, that in case any of the Islands, mentioned in any of the preceding Articles, which were in the possession of one of the Parties, prior to the commencement of the present War between the two Countries, should, by the decision of any of the Boards of Commissioners aforesaid, or of the Sovereign or State so referred to, as in the four next preceding Articles contained, fall within the Dominions of the other Party, all grants of land made previous to the commencement of the War, by the Party having had such possession, shall be as valid as if such Island or Islands had by such decision or decisions, been adjudged to be within the Dominions of the Party having had such possession.

IX. The United States of America engage to put an end, immediately after the Ratification of the present Treaty, to hostilities with all the Tribes or Nations of Indians, with whom they may be at War at the time of such Ratification; and forthwith to restore to such Tribes or Nations respectively, all the Possessions, Rights, and Privileges, which they may have

enjoyed, or been entitled to in 1811, previous to such hostilities: Provided always, that such Tribes or Nations shall agree to desist from all hostilities against The United States of America, their Citizens and Subjects, upon the Ratification of the present Treaty being notified to such Tribes or Nations, and shall so desist accordingly.

And His Britannic Majesty engages, on his part, to put an end, immediately after the Ratification of the present Treaty to hostilities with all the Tribes or Nations of Indians with whom he may be at War at the time of such Ratification; and forthwith to restore to such Tribes or Nations, respectively, all the Possessions, Rights and Privileges, which they may have enjoyed or been entitled to in 1811, previous to such hostilities: Provided always, that such Tribes or Nations shall agree to desist from all hostilities against His Britannic Majesty, and his Subjects, upon the Ratification of the present Treaty being notified to such Tribes or Nations, and shall so desist accordingly.

X. Whereas the Traffic in Slaves is irreconcileable with the principles of humanity and justice; And whereas, both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition; it is hereby agreed that both the Contracting Parties shall use their best endeavours to accomplish so desirable an object.

XI. This Treaty, when the same shall have been ratified on both sides, without alteration by either of the Contracting Parties, and the Ratifications mutually exchanged, shall be binding on both Parties, and the Ratifications shall be exchanged at Washington, in the space of four months from this day, or sooner if practicable.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done, in Triplicate, at Ghent, the 24th day of December, 1814.

(L.S.) GAMBIER,
(L.S.) HENRY GOULBURN,
(L.S.) WILLIAM ADAMS.

(L.S.) JOHN QUINCY ADAMS,
(L.S.) J. A. BAYARD,
(L.S.) H. CLAY,
(L.S.) JONA. RUSSELL,
(L.S.) ALBERT GALLATIN.

[1]*Declaration of the Commissioners under the IVth Article of the Treaty of Ghent.*

NEW YORK, 24th November, 1817.

SIR.—The Undersigned Commissioners, appointed by virtue of the IVth Article of the Treaty of Ghent, have attended to the duties assigned them, and have decided that Moose Island Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do each of them belong to the United States of America, and that all the other islands in the Bay of Passamaquoddy, and the Island of Grand Menan in the Bay of Fundy, do each of them belong to His Britannic Majesty, in conformity with the true intent of the IInd Article of the Treaty of Peace of 1783.

The Commissioners have the honour to enclose herewith their decision.

In making this decision, it became necessary that each of the Commissioners should yield a part of his individual opinion; several reasons induced them to adopt this measure, one of which was the impression and belief that the navigable waters of the Bay of Passamaquoddy, which, by the Treaty of Ghent, is said to be part of the Bay of Fundy, are common to both parties for the purpose of all lawful and direct communication with their own Territories and Foreign Ports.

The Undersigned have the honour to be, &c.,

The Hon. J. Q. ADAMS. JOHN HOLMES.
THOMAS BARCLAY.

*Decision of the Commissioners under the IVth Article of the Treaty of Ghent.—24th November, 1817.*

By Thomas Barclay and John Holmes, Esquires, Commissioners appointed by virtue of the IVth Article of the Treaty of Peace and Amity between His Britannic Majesty and the United States of America, concluded at Ghent, on the 24th day of December, 1814, to decide to which of the two Contracting Parties to the said Treaty, the several Islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do respectively belong, in conformity with the true intent of the

[1] From British & Foreign State Papers, Vol. 5, p. 199.

IInd Article of the Treaty of Peace of 1783, between His Said Britannic Majesty and the aforesaid United States of America: We, the said Thomas Barclay and John Holmes, Commissioners as aforesaid, having been duly sworn, impartially to examine and decide upon the said Claims, acording to such evidence as should be laid before us, on the part of His Britannic Majesty and the United States, respectively, have decided and do decide, that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do, and each of them does belong, to the United States of America; and we have also decided, and do decide, that all the other Islands and each and every of them in the said Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do belong to His said Britannic Majesty in conformity with the true intent of the said IInd Article of the said Treaty of 1783.

In faith and testimony whereof, we have set our hands and affixed our seals, at the city of New York, in the State of New York, in the United States of America, this 24th day of November, in the year of our Lord, 1817.

(L.S.) THOMAS BARCLAY.
(L.S.) JOHN HOLMES.

Witness, James T. Austin,
(Agent of the United States.)
Anthony Barclay.

*Commission under Article V.—Boundary from the source of the St. Croix River to the Saint Lawrence River.*

The Commission met September 23, 1816, and having disagreed held their last meeting April 13, 1822. By the convention of 1827 the dispute was left to the decision of the King of the Netherlands, who delivered his award January 10, 1831, which was not accepted by either Government and the boundary was finally agreed upon in the Ashburton treaty of 1842.

44035—2

*Declaration and Decision of the Commissioners of Great Britain and the United States, under the VIth Article of the Treaty of Ghent of 1814, respecting Boundaries,— Signed at Utica; 18th June, 1822.*

The Undersigned, Commissioners, appointed, sworn, and authorized, in virtue of the VIth Article of the Treaty of Peace and Amity between His Britannic Majesty and the United States of America, concluded at Ghent, on the 24th December, 1814, impartially to examine, and, by a Report or Declaration, under their Hands and Seals, to designate " that portion of the Boundary of the United States, from the point where the 45th degree of North Latitude strikes the River Iroquois, or Cataraqui, along the middle of said River into Lake Ontario, through the middle of said Lake until it strikes the communication, by water, between that Lake and Lake Erie; thence along the middle of said communication into Lake Erie through the middle of said Lake, until it arrives at the water communication into Lake Huron; thence through the middle of said water communication into Lake Huron; thence, through the middle of said Lake to the water communication between that Lake and Lake Superior," and to " decide to which of the two Contracting Parties the several Islands, lying within the said Rivers, Lakes, and Water communications, do respectively belong, in conformity with the true intent of the Treaty of 1783 ", do decide and declare, that the following described Line, (which is more clearly indicated in a series of Maps accompanying this Report, exhibiting correct surveys and delineations of all the Rivers, Lakes, Water Communications and Islands embraced by the VIth Article of the Treaty of Ghent, by a black line, shaded on the British side with red, and on the American side with blue; and each sheet of which series of Maps is identified by a Certificate, subscribed by the Commissioners, and by the two principal Surveyors employed by them) is the true Boundary intended by the two before mentioned Treaties; that is to say:

Beginning at a Stone Monument, erected by Andrew Ellicott, Esq., in the year 1817, on the South Bank, or Shore, of the said River Iroquois, or Cataraqui, (now called the St. Lawrence), which monument bears south 74 degrees 45 minutes West, and 1,840 yards distant from the stone Church in the Indian village of St. Regis, and indicates the point at which the 45th parallel of North Latitude strikes the said River; thence, running north 35 degrees 45 seconds west into the

[1] From British & Foreign State Papers, Vol. 9, p. 791.

River, on a line at right angles with the Southern shore, to a point 100 yards South of the opposite Island, called Cornwall Island; thence, turning Westerly, and passing around the Southern and Western sides of said Island, keeping 100 yards distant therefrom, and following the curvatures of its shores, to a point opposite to the North-west corner, or angle of said Island; thence, to and along the middle of the main River, until it approaches the Eastern extremity of Barnhart's Island; thence, Northerly, along the Channel which divides the last mentioned Island from the Canada shore, keeping 100 yards distant from the Island, until it approaches Sheik's Island; thence, along the middle of the strait which divides Barnhart's and Sheik's Islands, to the channel called the Long Sault, which separates the two last mentioned Islands from the lower Long Sault Island; thence, Westerly, (crossing the centre of the last mentioned Channel) until it aproaches within 100 yards of the north shore of the Lower Sault Island; thence, up the north branch of the River, keeping to the North of, and near, the Lower Sault Island, and also North of, and near, the Upper Sault (sometimes called Baxter's) Island, and south of the two small Islands, marked on the Map A and B, to the Western extremity of the Upper Sault, or Baxter's Island; thence, passing between the two Islands called the Cats, to the middle of the River above; thence, along the middle of the River, keeping to the North of the small Islands marked C and D; and north also of Chrystler's Island, and of the small Island next above it, marked E, until it approaches the North-east angle of Goose Neck Island; thence, along the passage which divides the last mentioned island from the Canada shore keeping one hundred yards from the island to the upper end of the same; thence, South of, and near, the Two small Islands called the Nut Islands; thence, North of, and near, the Island marked F, and also of the Island called Dry or Smugglers' Island; thence, passing between the Islands marked G and H, to the north of the Island called Isle au Rapid Plat; thence, along the North side of the last mentioned Island, keeping 100 yards from the shore, to the upper end thereof; thence, along the middle of the River, keeping to the South of, and near, the Islands called Cousson (or Tussin) and Presque Isle; thence, up the River, keeping North of, and near, the several Gallop Isles, numbered on the map 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, and also of Tick, Tibbet's, and Chimney Islands; and South of,

and near the Gallop Isles, numbered 11, 12 and 13, and also of Duck, Drummond, and Sheep Islands; thence, along the middle of the river, passing North of Island No. 14, South of 15 and 16, North of 17; South of 18, 19, 20, 21, 22, 23, 24, 25 and 28, and North of 26 and 27; thence, along the middle of the River, North of Gull Island and of the Islands No. 29, 32, 33, 34, 35, Bluff Island, and No. 39, 44 and 45, and to the South of No. 30, 31, 36, Grenadier Island, and No. 37, 38, 40, 41, 42, 43, 46, 47 and 48 until it approaches the East end of Well's Island; thence to the North of Well's Island, and along the strait which divides it from Rowe's Island, keeping to the North of the small Islands No. 51, 52, 54, 58, 59, and 61, and to the south of the small islands numbered and marked 49, 50, 53, 55, 57, 60 and X, until it approaches the north-east point of Grindstone Island; thence, to the north of Grindstone Island; and keeping to the north also of the small islands No. 63, 65, 67, 68, 70, 72, 73, 74, 75, 76, 77, and 78, and to the south of No. 62, 64, 66 69 and 71, until it approaches the southern point of Hickory Island; thence, passing to the south of Hickory Island, and of the two small islands lying near its southern extremity, numbered 79 and 80; thence, to the south of Grand or Long Island, keeping near its southern shore, and passing to the north of Carlton Island, until it arrives opposite to the southwestern point of said Grand Island in Lake Ontario; thence, passing to the north of Grenadier, Fox, Stony, and the Gallop Islands, in Lake Ontario, and to the south of, and near, the islands called the Ducks, to the middle of the said lake; thence, westerly, along the middle of said lake, to a point opposite the mouth of the Niagara River; thence, to and up the middle of the said river, to the Great Falls; thence up the Falls, through the point of the Horse Shoe, keeping to the west of Iris or Goat Island, and of the group of small islands at its head, and following the bends of the river so as to enter the strait between Navy and Grand Islands; thence, along the middle of said strait, to the head of Navy Island; thence, to the west and south of, and near to, Grand and Beaver Islands, and to the west of Strawberry, Squaw, and Bird Islands, to Lake Erie; thence, southerly and westerly, along the middle of Lake Erie, in a direction to enter the passage immediately south of Middle Island, being one of the easternmost of the group of islands lying in the western part of said lake; thence, along the said passage,

proceeding to the north of Cunningham's Island, and of the three Bass Islands, and of the Western Sister, and to the south of the islands called the Hen and Chickens, and of the Eastern and Middle Sisters; thence, to the middle of the mouth of the Detroit River, in a direction to enter the channel which divides Bois-Blanc and Sugar Islands; thence, up the said channel to the west of Bois-Blanc Island, and to the east of Sugar, Fox, and Stony Islands, until it approaches Fighting, or Great Turkey Island, thence, along the western side and near the shore of said last mentioned island, to the middle of the river above the same; thence, along the middle of said river, keeping to the southeast of, and near Hog Island, to the northwest of, and near the island called Isle à la Pêche, to Lake St. Clair; thence, through the middle of said lake, in a direction to enter that mouth or channel of the River St. Clair which is usually denominated the Old Ship Channel; thence, along the middle of said channel, between Squirrel Island on the southeast and Hersons Island on the northwest, to the upper end of last mentioned island, which is nearly opposite Point aux Chênes, on the American shore; thence, along the middle of the River St. Clair, keeping to the west of, and near the islands called Belle Rivière Isle, and Isle aux Cerfs, to Lake Huron; thence, through the middle of Lake Huron, in a direction to enter the strait or passage between Drummond's Island on the west, and the little Manitou Island on the east; thence, through the middle of the passage which divides the two last mentioned islands; thence, turning northerly and westerly, around the eastern and northern shores of Drummond's Island, and proceeding in a direction to enter the passage between the Island of St. Joseph's and the American shore, passing to the north of the intermediate islands No. 61, 11, 10, 12, 9, 6, 4, and 2, and to the south of those numbered 15, 13, 5, and 1; thence up the said last mentioned passage keeping near to the Island St. Joseph's and passing to the north and east of Isle à la Crosse, and of the small islands numbered 16, 17, 18, 19, and 20, and to the south and west of those numbered 21, 22 and 23, until it strikes a line (drawn on the map with black ink, and shaded on one side of the point of intersection with blue, and on the other side with red) passing across the river at the head of St. Joseph's Island, and at the foot of the Neebish Rapids,

which line denotes the termination of the boundary directed to be run by the VIth Article of the Treaty of Ghent.

And the said Commissioners do further decide and declare, that all the islands lying in the rivers, lakes and water communications, between the before described boundary line and the adjacent shores of Upper Canada do, and each of them does, belong to His Britannic Majesty, and that all the islands lying in the rivers, lakes, and water communications, between the said boundary line and the adjacent shores of the United States, or their territories, do, and each of them does, belong to the United States of America, in conformity with the true intent of the IId Article of the said Treaty of 1783, and of the VIth Article of the Treaty of Ghent.

In faith whereof, we, the Commissioners aforesaid, have signed this Declaration, and thereunto affixed our Seals.

Done in quadruplicate, at Utica, in the State of New York, in the United States of America, this 18th day of June, in the year of our Lord 1822.

(L.S.) ANTH. BARCLAY.
(L.S.) PETER B. PORTER

*Commission under Article VII.—Boundary from Lake Huron to the Lake of the Woods.*

The Commission met June 22, 1822, and, having disagreed, held their final meeting December 24, 1827. The boundary was settled by the Ashburton Treaty of 1842.

## 1817.

### EXCHANGE OF NOTES BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA CONCERNING THE NAVAL FORCE TO BE MAINTAINED ON THE GREAT LAKES, WASHINGTON, 28-29 APRIL, 1817.

*From His Majesty's Minister at Washington to the United States Secretary of State.*

WASHINGTON, April 28, 1817.

The Undersigned, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to

acquaint Mr. Rush that having laid before His Majesty's Government the correspondence which passed last year between the Secretary of the Department of State and the Undersigned upon the subject of a proposal to reduce the Naval Force of the respective countries upon the American lakes he has received the commands of His Royal Highness the Prince Regent to acquaint the Government of the United States, that His Royal Highness is willing to accede to the proposition made to the Undersigned by the Secretary of the Department of State in his note of the 2nd of August last.

His Royal Highness, acting in the name and on the behalf of His Majesty, agrees, that the Naval Force to be maintained upon the American lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side—that is:

On Lake Ontario to one vessel not exceeding one hundred tons burthen and armed with one eighteen-pound cannon.

On the Upper Lakes to two vessels not exceeding like burthen each and armed with like force.

On the waters of Lake Champlain to one vessel not exceeding like burthen and armed with like force.

And His Royal Highness agrees, that all other armed vessels, on these lakes shall be forthwith dismantled, and that no other vessels of war shall be there built or armed.

His Royal Highness further agrees, that if either party should hereafter be desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

The Undersigned has it in command from His Royal Highness the Prince Regent to acquaint the American Government, that His Royal Highness has issued orders to His Majesty's Officers on the lakes directing, that the Naval Force so to be limited shall be restricted to such services as will in no respect interfere with the proper duties of the armed vessels of the other party.

The Undersigned has the honour to renew to Mr. Rush the assurances of his highest consideration.

CHARLES BAGOT.

*From the United States Secretary of State to His Majesty's Minister at Washington.*

DEPARTMENT OF STATE,
April 29, 1817.

The Undersigned, acting Secretary of State, has the honour to acknowledge the receipt of Mr. Bagot's note of the 28th of this month, informing him that, having laid before the Government of His Britannic Majesty, the correspondence which passed last year between the Secretary of State and himself upon the subject of a proposal to reduce the naval force of the two countries upon the American lakes, he had received the commands of His Royal Highness the Prince Regent to inform this Government that His Royal Highness was willing to accede to the proposition made by the Secretary of State in his note of the second of August last.

The Undersigned has the honour to express to Mr. Bagot the satisfaction which the President feels at His Royal Highness the Prince Regent's having acceded to the proposition of this Government as contained in the note alluded to. And in further answer to Mr. Bagot's note, the Undersigned, by direction of the President, has the honour to state, that this Government, cherishing the same sentiments expressed in the note of the second of August, agrees, that the naval force to be maintained upon the lakes by the United States and Great Britain shall, henceforth, be confined to the following vessels on each side, that is:

On Lake Ontario to one vessel not exceeding one hundred tons burden, and armed with one eighteen-pound cannon. On the Upper Lakes to two vessels not exceeding the like burden each, and armed with like force, and on the waters of Lake Champlain to one vessel not exceeding like burden and armed with like force.

And it agrees, that all other armed vessels on these lakes shall be forthwith dismantled, and that no other vessels of war shall be there built or armed. And it further agrees, that if either party should hereafter be desirous of annulling this stipulation and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

The Undersigned is also directed by the President to state, that proper orders will be forthwith issued by this Gov-

ernment to restrict the naval force thus limited to such services as will in no respect interfere with the proper duties of the armed vessels of the other party.

The Undersigned eagerly avails himself of this opportunity to tender to Mr. Bagot the assurances of his distinguished consideration and respect.

RICHARD RUSH.

## [1] PROCLAMATION OF THE PRESIDENT OF THE UNITED STATES, PUBLISHING THE ARRANGEMENT CONCLUDED WITH GREAT BRITAIN, IN APRIL, 1817, RELATIVE TO THE NAVAL FORCE TO BE MAINTAINED BY THE TWO POWERS UPON THE AMERICAN LAKES.—WASHINGTON, 28TH APRIL, 1818.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

*A Proclamation.*

WHEREAS an Arrangement was entered into at the City of Washington, in the month of April, in the year of Our Lord, 1817, between Richard Rush, Esq., at that time acting as Secretary for the Department of State of The United States, for and in behalf of the Government of the United States, and the Right Honourable Charles Bagot, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, for and in behalf of His Britannic Majesty which Arrangement is in the words following, to wit:

'The Naval Force to be maintained upon the American Lakes, by His Majesty and the Government of The United States, shall henceforth be confined to the following Vessels on each side; that is:

'On Lake Ontario, to one vessel not exceeding one hundred tons burden, and armed with one eighteen-pound cannon.

'On the upper Lakes, to two Vessels, not exceeding like burden each, and armed with like force.

'On the waters of Lake Champlain, to one Vessel not exceeding like burden, and armed with like force.

'All other armed Vessels on these Lakes shall be forthwith dismantled, and no other Vessels of war shall be there built or armed.

[1] From British & Foreign State Papers, Vol. 5, p. 1200.

'If either Party should hereafter be desirous of annulling this Stipulation, and should give notice to that effect to the other Party, it shall cease to be binding after the expiration of six months from the date of such notice.

'The Naval Force so to be limited shall be restricted to such services as will, in no respect, interfere with the proper duties of the Armed Vessels of the other Party.'

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And whereas, the Senate of The United States have approved of the said Arrangement, and recommended that it should be carried into effect; the same having also received the sanction of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Britannic Majesty:

Now, therefore, I, James Monroe, President of The United States, do, by this my Proclamation, make known and declare that the Arrangement aforesaid, and every stipulation thereof, has been duly entered into, concluded, and confirmed, and is of full force and effect.

Given under my hand, at the City of Washington, this 28th day of April, in the year of Our Lord 1818, and of the Independence of the United States the 42nd.

By the President: JAMES MONROE.

JOHN QUINCY ADAMS,
*Secretary of State.*

## 1818.

[1] CONVENTION OF COMMERCE BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA.—Signed at London, 20th October, 1818.

*Ratifications exchanged 30th January, 1819.*

His Majesty the King of the United Kingdom of Great Britain and Ireland, and the United States of America, desirous to cement the good understanding which happily subsists between them, have, for that purpose, named their respective plenipotentiaries—that is to say:—

His Majesty, on his part, has appointed the Right Honourable Frederick John Robinson, Treasurer of His Majesty's Navy, and President of the Committee of Privy Council for

[1] From British & Foreign State Papers, Vol. 6, p. 3.

Trade and Plantations; and Henry Goulburn, Esquire, one of His Majesty's Under Secretaries of State:

And the President of the United States has appointed Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to the Court of France; and Richard Rush, their Envoy Extraordinary and Minister Plenipotentiary to the Court of His Britannic Majesty.

Who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:—

Art. I. Whereas differences have arisen respecting the liberty claimed by the United States, for the Inhabitants thereof, to take, dry, and cure fish, on certain Coasts, Bays, Harbours, and Creeks, of His Britannic Majesty's Dominions, in America; it is agreed between the High Contracting Parties, that the Inhabitants of the said United States shall have, for ever, in common with the Subjects of His Britannic Majesty, the liberty to take fish of every kind, on that part of the southern Coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern Coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the Coasts, Bays, Harbours and Creeks, from Mount Joly, on the southern Coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the Coast; without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled Bays, Harbours, and Creeks, of the southern part of the Coast of Newfoundland hereabove described, and of the Coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said Fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the Inhabitants, Proprietors or Possessors of the ground. And the United States hereby renounce for ever, any liberty heretofore enjoyed or claimed by the Inhabitants thereof, to take, dry, or cure fish, on or within three marine miles of any of the Coasts, Bays, Creeks, or Harbours, of His Britannic Majesty's Dominions in America, not included within the above-mentioned limits: provided, however, that the American Fishermen shall be admitted to enter such Bays or Harbours, for the purpose of shelter and of

repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

II. It is agreed that a line drawn from the most north-western point of the Lake of the Woods, along the 49th parallel of north latitude, or, if the said point shall not be in the 49th parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection due west along and with the said parallel, shall be the line of demarcation between the Territories of His Britannic Majesty and those of the United States, and that the said line shall form the southern boundary of the said Territories of His Britannic Majesty, and the northern boundary of the Territories of the United States, from the Lake of the Woods to the Stony Mountains.

III. It is agreed, than any Country that may be claimed by either Party on the north-west coast of America, westward of the Stony Mountains, shall, together with its Harbours, Bays and Creeks, and the navigation of all rivers within the same, be free and open for the term of 10 years from the date of the signature of the Present Convention, to the Vessels, Citizens and Subjects of the 2 powers: it being well understood, that this Agreement is not to be construed to the prejudice of any claim which either of the 2 High Contracting Parties may have to any part of the said Country, nor shall it be taken to affect the claims of any other Power or State to any part of the said Country, the only object of the High Contracting Parties, in that respect, being to prevent disputes and differences amongst themselves.

IV. All the provisions of the Convention "to regulate the commerce between the Territories of His Britannic Majesty and of The United States," concluded at London, on the 3rd day of July, in the year of our Lord, 1815, with the exception of the Clause which limited its duration to 4 years; and excepting also, so far as the same was affected by the Declaration of His Majesty respecting the Island of St. Helena,

are hereby extended and continued in force for the term of 10 years, from the date of the signature of the present Convention, in the same manner as if all the provisions of the said Convention were herein specially recited.

V. Whereas it was agreed by the 1st Article of the Treaty of Ghent, that "All Territory, Places and Possessions whatsoever taken by either Party from the other during the war, or which may be taken after the signing of this Treaty, excepting only the Islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the Artillery or other public property originally captured in the said Forts or Places, which, shall remain therein upon the exchange of the Ratifications of this Treaty, or any Slaves or other private property;"—and whereas, under the aforesaid Article, The United States claim for their Citizens, and as their private property, the restitution of, or full compensation for, all Slaves who, at the date of the exchange of the Ratifications of the said Treaty, were, in any Territority, Places or Possessions whatsoever, directed by the said Treaty, to be restored to The United States, but then still occupied by the British Forces, whether such Slaves were, at the date aforesaid, on shore, or on board any British Vessel, lying in waters within the territory or jurisdiction of The United States; and whereas differences have arisen, whether, by the true intent and meaning of the aforesaid Article of the Treaty of Ghent, The United States are entitled to the restitution of, or full compensation for, all or any Slaves, as above described; the High Contracting Parties hereby agree to refer the said differences to some friendly Sovereign or State, to be named for that purpose; and the High Contracting Parties further engage to consider the decision of such friendly Sovereign or States to be final and conclusive on all the matters referred.

VI. This Convention, when the same shall have been duly ratified by His Britannic Majesty and the President of The United States, by and with the advice and consent of their Senate, and the respective Ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said United States; and the Ratifications shall be exchanged in 6 months from this date, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have thereunto affixed the Seal of their Arms.

Done at London, this 20th day of October, in the year of our Lord, 1818.

(L.S.) FREDERICK JOHN ROBINSON.
(L.S.) HENRY GOULBURN.

(L.S.) ALBERT GALLATIN.
(L.S.) RICHARD RUSH.

## 1842.

[1] TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES, TO SETTLE AND DEFINE THE BOUNDARIES BETWEEN THE POSSESSIONS OF HER BRITANNIC MAJESTY IN NORTH AMERICA, AND THE TERRITORIES OF THE UNITED STATES; FOR THE FINAL SUPPRESSION OF THE AFRICAN SLAVE TRADE; AND FOR THE GIVING UP OF CRIMINALS, FUGITIVE FROM JUSTICE, IN CERTAIN CASES.—SIGNED AT WASHINGTON, AUGUST 9, 1842.

(*Ratifications exchanged at London, October 13, 1842.*)

Whereas certain portions of the line of boundary between the British dominions in North America and the United States of America, described in the IInd Article of the Treaty of Peace of 1783, have not yet been ascertained and determined, notwithstanding the repeated attempts which have been heretofore made for that purpose; and whereas it is now thought to be for the interest of both parties that, avoiding further discussion of their respective rights, arising in this respect under the said Treaty, they should agree on a Conventional line in said portions of the said Boundary, such as may be convenient to both parties, with such equivalents and compensations as are deemed just and reasonable:—And whereas, by the Treaty concluded at Ghent on the 24th day of December, 1814, between His Britannic Majesty and the United States, an Article was agreed to and inserted, of the following tenor, viz: "Article X. Whereas

[1] From British & Foreign State Papers, Vol. 30, p. 360.

the traffic in slaves is irreconcileable with the principles of humanity and justice; and whereas both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition; it is hereby agreed, that both the Contracting Parties shall use their best endeavours to accomplish so desirable an object," and whereas, notwithstanding the laws which have at various times been passed by the two Governments, and the efforts made to suppress it, that criminal traffic is still prosecuted and carried on; and whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, are determined that, so far as may be in their power, it shall be effectually abolished: And whereas it is found expedient for the better administration of justice, and the prevention of crime within the territories and jurisdiction of the two Parties, respectively, that persons committing the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up:—Her Britannic Majesty, and the United States of America, having resolved to treat on these several subjects, have for that purpose appointed their respective Plenipotentiaries to negotiate and conclude a Treaty that is to say: Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on her part, appointed the Right Honourable Alexander Lord Ashburton, a Peer of the said United Kingdom, a Member of Her Majesty's Most Honourable Privy Council, and Her Majesty's Minister Plenipotentiary on a Special Mission to the United States; and the President of the United States has, on his part, furnished with Full Powers Daniel Webster, Secretary of State of the United States; who, after a reciprocal communication of their respective full powers, have agreed to and signed the following Articles:

Art. I. It is hereby agreed and declared, that the line of boundary shall be as follows.—Beginning at the monument at the source of the River St. Croix, as designated and agreed to by the Commissioners under the Vth Article of the Treaty of 1794, between the governments of Great Britain and the United States, thence north, following the exploring line run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the Vth Article of the Treaty of Ghent, to its intersection with the River St. John, and to the middle of the channel thereof; thence up the middle of the main channel

of the said River St. John to the mouth of the River St. Francis, thence up the middle of the channel of the said River St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook; thence south-westerly, in a straight line, to a point on the north-west branch of the River St. John, which point shall be 10 miles distant from the main branch of the St. John, in a straight line and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the River St. Lawrence from those which fall into the River St. John, then the said point shall be made to recede down the north-west branch of the River St. John, to a point seven miles in a straight line from the said summit or crest; thence in a straight line, in a course about south, 8 degrees west, to the point where the parallel of latitude of 46° 25′ north, intersects the south-west branch of the St. John's; thence southerly by the said branch, to the source thereof in the highlands at the Metjarmette Portage; thence down along the said highlands which divide the waters which empty themsel[illegible] into the River St. Lawrence, from those which fall into [illegible] ocean, to the head of Hall's stream; thence do[illegible] of said stream, till the line thus run intersects the [illegible]ine of boundary surveyed and marked by Valentine and Collins previously to the year 1774 as the 45th degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British Province of Canada on the other; and from said point of intersection west along the said dividing line, as heretofore known and understood, to the Iroquois, or St. Lawrence river.

II. It is moreover agreed, that from the place where the joint Commissioners terminated their labours under the VIth Article of the Treaty of Ghent, to wit, at a point in the Neebish Channel, near Muddy Lake, the line shall run into and along the ship channel between St. Joseph's and St. Tammany Islands, to the division of the channel at or near the head of St. Joseph's Island; thence, turning eastwardly and northwardly around the lower end of St. George's or Sugar Island, and following the middle of the channel which divides St. George's from St. Joseph's Island; thence, up the east

Neebish Channel nearest to St. George's Island, through the middle of Lake George; thence west of Jonas' Island into St. Mary's River, to a point in the middle of that river about 1 mile above St. George's or Sugar Island, so as to appropriate and assign the said island to The United States; thence, adopting the line traced on the maps by the Commissioners, through the River St. Mary and Lake Superior to a point north of Ile Royale in said lake, 100 yards to the north and east of Ile Chapeau, which last-mentioned island lies near the north-eastern point of Ile Royale, where the line marked by the Commissioners terminates; and from the last-mentioned point south-westerly through the middle of the sound between Ile Royale and the north-western mainland, to the mouth of Pigeon River, and up the said river to and through the north and south Fowl Lakes, to the lakes of the height of land between Lake Superior and the Lake of the Woods; thence, along the water-communication to Lake Saisaginaga and through that lake; thence, to and through Cypress Lake, Lac du Bois-Blanc, Lac la Croix, Little Vermillion Lake, and Lake Namecan, and through the several smaller lakes, straits, or streams connecting the same, to that point in Lac la Pluie, or Rainy Lake, at the Chaudière Falls, from which the Commissioners traced the line to the most north-western point of the Lake of the Woods; thence, along the said line to the said north-western point, being in latitude 49 degrees 23 minutes 55 seconds north, and in longitude 95 degrees 14 minutes 38 seconds west, from the observatory at Greenwich; thence according to existing Treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky Mountains. It being understood that all the water-communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage from the shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the subjects and citizens of both countries.

III. In order to promote the interests and encourage the industry of all the inhabitants of the countries watered by the River St. John and its tributaries, whether living within the Province of New Brunswick, or the State of Maine, it is agreed, that where by the provisions of the present Treaty, the River St. John is declared to be the line of boundary, the navigation of the said river shall be free and open to both

parties, and shall in no way be obstructed by either; that all the produce of the forest, in logs, lumber, timber, boards, staves, or shingles, or of agriculture, not being manufactured, grown on any of those parts of the State of Maine watered by the River St. John or by its tributaries, of which fact reasonable evidence shall, if required, be produced, shall have free access into and through the said river and its said tributaries having their source within the State of Maine, to and from the sea-port at the mouth of the said River St. John's, and to and round the falls of the said river, either by boats, rafts, or other conveyance; that when within the province of New Brunswick, the said produce shall be dealt with as if it were the produce of the said province; that in like manner the inhabitants of the territority of the upper St. John, determined by this Treaty to belong to Her Britannic Majesty, shall have free access to and through the river for their produce, in those parts where the said river runs wholly through the State of Maine:—provided always that this agreement shall give no right to either party to interfere with any regulations not inconsistent with the terms of this Treaty, which the Governments, respectively, of New Brunswick or of Maine may make respecting the navigation of the said river, where both banks thereof shall belong to the same party.

IV. All grants of land heretofore made by either party within the limits of the territory which by this Treaty falls within the dominions of the other party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this Treaty fallen within the dominions of the party by whom such grants were made; and all equitable possessory claims, arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this Treaty, shall in like manner be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land, so described as best to include the improvements made thereon; and in all other respects the two Contracting Parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them respectively, which has heretofore been in dispute between them.

V. Whereas, in the course of the controversy respecting the disputed territory on the north-eastern boundary, some monies have been received by the authorities of Her Britannic Majesty's province of New Brunswick, with the intention of preventing depredations on the forests of the said territory, which monies were to be carried to a fund called the "Disputed Territory Fund," the proceeds whereof it was agreed should be hereafter paid over to the parties interested, in the proportions to be determined by a final settlement of boundaries; it is hereby agreed that a correct account of all receipts and payments on the said fund shall be delivered to the Government of the United States within six months after the ratification of this treaty, and the proportion of the amount due thereon to the States of Maine and Massachusetts, and any bonds or securities appertaining thereto, shall be paid and delivered over to the Government of the United States; and the Government of the United States agrees to receive for the use of, and pay over to the States of Maine and Massachusetts their respective portions of said fund; and further, to pay and satisfy said States, respectively, for all claims for expenses incurred by them in protecting the said heretofore disputed territory, and making a survey thereof in 1838; the Government of the United States agreeing with the States of Maine and Massachusetts to pay them the further sum of 300,000 dollars, in equal moieties, on account of their assent to the line of boundary described in this treaty, and in consideration of the conditions and equivalents received therefor from the Government of Her Britannic Majesty.

VI. It is furthermore understood and agreed, that for the purpose of running and tracing those parts of the line between the source of the St. Croix and the St. Lawrence river, which will require to be run and ascertained, and for marking the residue of said line by proper monuments on the land, two Commissioners shall be appointed, one by Her Britannic Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said Commissioners shall meet at Bangor, in the State of Maine, on the 1st day of May next, or as soon thereafter as may be, and shall proceed to mark the line above described from the source of the St. Croix to the River St. John, and shall trace on proper maps the dividing line along said river, and along the River St. Francis to the outlet of the Lake Pohenagamook;

and from the outlet of the said lake they shall ascertain, fix, and mark by proper and durable monuments on the land, the line described in the 1st Article of this treaty; and the said Commissioners shall make to each of their respective governments a joint report or declaration, under their hands and seals, designating such line of boundary, and shall accompany such report or declaration with maps, certified by them to be true maps of the new boundary.

VII. It is further agreed, that the channels in the River St. Lawrence on both sides of the Long Sault Islands and of Barnhart Island, the channels in the River Detroit, on both sides of the Island Bois Blanc, and between that island and both the Canadian and American shores, and all the several channels and passages between the various islands lying near the junction of the River St. Clair with the lake of that name, shall be equally free and open to the ships, vessels, and boats of both parties.

VIII. The parties mutually stipulate that each shall prepare, equip, and maintain in service on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than 80 guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries for the suppression of the Slave Trade; the said squadrons to be independent of each other, but the two Governments stipulating nevertheless to give such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this Article; copies of all such orders to be communicated by each government to the other respectively.

IX. Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing the Slave Trade, the facilities for carrying on that traffic, and avoiding the vigilance of cruisers, by the fraudulent use of flags and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed, unless all markets be shut against the purchase of African Negroes;—the parties to this Treaty agree that they will unite in all becoming representations and

remonstrances with any and all the Powers within whose dominions such markets are allowed to exist; and that they will urge upon all such Powers the propriety and duty of closing such markets effectually, at once and for ever.

*X. It is agreed that Her Britannic Majesty and the United States shall, upon mutual requisitions by them or their Ministers, Officers, or Authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum, or shall be found within the territories of the other; provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective Judges and other Magistrates of the two Governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other Magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining Judge or Magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive.

XI. The VIIIth Article of this Treaty shall be in force for 5 years from the date of the exchange of the ratifications, and afterwards, until one or the other party shall signify a wish to terminate it. The Xth Article shall continue in force until one or the other of the parties shall signify its wish to terminate it, and no longer.

XII. The present Treaty shall be duly ratified, and the mutual exchange of ratifications shall take place in London within 6 months from the date hereof, or earlier if possible.

* See Explanatory Note page 38.

In faith whereof we, the respective plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate at Washington, the 9th day of August, 1842.

(L.S.) ASHBURTON. (L.S.) DANL. WEBSTER.

## Explanatory Note.

*Lord Ashburton to Mr. Webster.*

Washington, August 9, 1842.

Sir,—By the IIIrd (?10th) Article of the Convention which I have this day signed with you, there is an agreement for the reciprocal delivery, in certain cases, of criminals fugitive from justice, but it becomes necessary that I should apprise you that this Article can have no legal effect within the Dominions of Great Britain until confirmed by Act of Parliament. It is possible that Parliament may not be in session before the exchange of the ratifications of the Convention, but its sanction shall be asked at the earliest possible period, and no doubt can be entertained that it will be given. In Her Majesty's territories in Canada, where cases for acting under this Convention are likely to be of more frequent occurrence, the Governor General has sufficient power under the authority of local legislation, and the Convention will there be acted upon so soon as its ratification shall be known; but it becomes my duty to inform you of the short delay which may possibly intervene in giving full effect to it, where the confirmation by Parliament becomes necessary for its execution.

I beg, etc.,

ASHBURTON.

The Hon. Daniel Webster.

## [1] REPORT OF THE BRITISH AND UNITED STATES COMMISSIONERS, APPOINTED UNDER THE TREATY OF AUGUST 9, 1842, TO TRACE AND MARK THE BOUNDARY BETWEEN THE BRITISH POSSESSIONS IN NORTH AMERICA AND THE UNITED STATES (NEW BRUNSWICK AND STATE OF MAINE).—WASHINGTON, JUNE 28, 1847.

The Undersigned, Commissioners appointed under the Treaty of Washington, to trace and mark the boundary, as directed by that Treaty, between the British possessions in North America and The United States, that is to say:—James Bucknall Bucknall Estcourt, Lieutenant-Colonel in the British Army, appointed Commissioner by Her Britannic Majesty, and Albert Smith, appointed Commissioner by the President of The United States, having accomplished the duty assigned to them, do now, in accordance with the directions of the said Treaty, submit the following report, and the accompanying maps, jointly signed, to their respective Governments.

In obedience to the terms of the Treaty, they met at Bangor, in the State of Maine, on the 1st day of May, 1843, where they produced and verified the authority under which they each were respectively to act. They then adjourned, because the weather was not sufficiently open to take the field, to the 1st of the following month, June, and agreed to meet again at that time at Houlton.

Accordingly, they did meet at that place, and began their operations.

It may be desirable to state, at the outset that, for the sake of convenience, the whole line of boundary marked by the Undersigned has been divided, in the mention made of the different portions, into the following grand divisions, Viz:

North line, from the source of the St. Croix to the intersection of the St. John.

River St. John, from the intersection of the north line to the mouth of the St. Francis.

River St. Francis, from its mouth to the outlet of Lake Pohenagamook.

South-west line, from the outlet of Lake Pohenagamook to the north-west branch of the St. John.

South line, from the north-west branch to the parallel of latitude 46° 25′ on the south-west branch.

[1] From British & Foreign State Papers, Vol. 57, p. 823.

South-west branch, from the parallel 46° 25′ to its source.

Highlands, from the source of the south-west branch of the St. John to the source of Hall's stream.

Hall's stream, from its source to the intersection of the line of Valentine and Collins.

West line, from Hall's stream to the St. Lawrence, near St. Regis along the line of Valentine and Collins.

To return to the narrative of operations.

The exploring line of Colonel Bouchette and Mr. Johnson, as directed by the Treaty, was traced from the monument at the source of the St. Croix to the intersection of the St. John.

The monument found at the source of the St. Croix, as described in the report of Colonel Bouchette and Mr. Johnson, and the course of their exploring line, was traced by blazes or marks upon the trees.

An old line, cut out by the Assistant surveyors of Colonel Bouchette and Mr. Johnson, was also found, which terminated about half a mile north of the south branch of the Meduxnekeag, where, by records to which the Undersigned referred, they ascertained that it had been abandoned, because of its deviation from the exploring line of Colonel Bouchette and Mr. Johnson.

After the exploration and re-marking of the north line, it was cut out 30 feet wide. The same was afterwards done in all parts where the boundary passed through woodland. After thus opening the north line it was surveyed; and iron posts were erected at intervals to mark it.

The general bearing of the line was rather to the west of the meridian of the monument at the source of the St. Croix. The precise line laid down by the Undersigned was determined by successive courses, of which each was made to be as long as was convenient, provided it did not pass out of the opening of 30 feet.

At each angle of deflection an iron monument was erected, and placed anglewise with the line. Other monuments were erected at the crossing of roads, rivers, and at every mile, commencing from the source of the St. Croix. Those which were not intended to mark angles of deflection were placed square with the line.

At the intersection of the St. John by the north line, the river is deep and broad. The boundary runs up the middle channel of the river, as indicated by the maps, dividing the islands as follows:

| No. | | |
|---|---|---|
| 1. | Ryan's Island | United States. |
| 2. | King's Island | United States. |
| 3. | Des Trois Isles | United States. |
| 4. | La Septième Isle | United States. |
| 5. | Quissibis | Great Britain. |
| 6. | La Grande Isle | United States. |
| 7. | Thibideau's Islands | United States. |
| 8. | Madawaska Islands | Great Britain. |
| 9. | Joseph Michaud's three Islands | United States. |
| 10. | Pine Island | Great Britain. |
| 11. | Baker's Island | Great Britain. |
| | Turtle Island | Great Britain. |
| | Dagle's Island | Great Britain. |
| | Fourth Island | Great Britain. |
| | Fifth Island | Great Britain. |
| 12. | Kennedy's Island | Great Britain. |
| 13. | Crock's Island | Great Britain. |
| | Cranberry Island | Great Britain. |
| | Gooseberry Island | Great Britain. |
| 14. | Savage's Island | United States. |
| 15. | Wheelock's Island | United States. |
| 16. | Caton's Island | United States. |
| 17. | Honeywell's Island | United States. |
| 18. | Savage and Johnson's Island | United States. |
| 19. | Grew's Island | United States. |
| 20. | Kendall's Island | Great Britain. |

The islands were distributed to Great Britain or to The United States, as they were found to be on right or left of the deep channel. There was but one doubtful case, La Septième Isle, and that was apportioned to The United States, because the majority of the owners were ascertained to reside on The United States' side of the river.

Monuments were erected upon the islands, marking them for Great Britain or The United States as the case may have been.

After leaving the St. John, the boundary enters the St. Francis, dividing the islands at the mouth of that river in the manner shown in the maps. It then runs up the St. Francis,

through the middle of the lakes upon it, to the outlet of Lake Pohenagamook, the third large lake from the mouth of the river. At the outlet, a large monument has been erected.

In order to determine the point on the north-west branch to which the Treaty directed that a straight line should be run from the outlet of Lake Pohenagamook, a survey of that stream was made, and also of the main St. John, in the neighbourhood of the mouth of the north-west branch, and a line was cut between the St. John and the point on the north-west branch, ascertained by the survey to be 10 miles in the nearest direction from it, and the distance was afterwards verified by chaining.

It was ascertained also in accordance with the provisions of the Treaty by a triangulation of the country towards the Highlands dividing the waters of the St. Lawrence and of the St. John, that more than 7 miles intervened between the points selected on the northwest branch and the crest of the dividing ridge. A large iron monument was afterwards erected on the point thus selected, and the space around was cleared and sown with grass-seed. It is a short distance below the outlet of Lake Ishaganalshegeck.

The outlet of Lake Pohenagamook and the point on the north-west branch, designated by the Treaty having been thus ascertained and marked, in the spring of 1844, a straight line was run between them. Along that line, which passes entirely through forest, monuments were erected at every mile, at the crossings of the principal streams and rivers, and at the tops of those hills where a transit instrument had been set up to test the straightness of the line.

As soon as the parallel of latitude 46° 25′ had been determined on the south-west branch, in the early part of the summer of 1844, a straight line was drawn from the boundary point on the north-west branch to a large monument erected on the left bank of the south-west branch where it is intersected by the parallel of latitude 46° 25′. The line so drawn crosses the south-west branch once before it reaches the parallel of latitude 46° 25′, and at about half a mile distance from that parallel. There also, a large monument had been set up on the left bank.

From the intersection of the parallel 46° 25′, the boundary ascends the south-west branch, passes through a lake near its head, and so up a small stream which falls into the lake from the west, to the source of that stream, which has been selected as the source of the south-west branch.

On the south-west branch there are two principal forks, at each of which two monuments have been erected, one on each bank of the river, immediately above the forks, and upon the branch established as the boundary. The maps point out their positions. At the mouth of the small stream selected as the source of the south-west branch, a monument has been erected upon a delta formed by two small outlets. Above those outlets 3 other monuments have been placed, at intervals upon the same stream.

Upon the crest of the dividing ridge, very close to the source of the south-west branch a monument has been erected. It is the first point in the Highlands, and from it the boundary runs along the crest, in a southerly direction, passing near the south-eastern shore of the Portage Lake, and so on to a large monument erected on a small eminence on the east side of the Kenebec road. Thence it passes through a dwelling-house, called Tachereau's which was standing there at the time the line was run; so, by a tortuous course, it runs to the top of the Sandy Stream Mountain; thence, inclining to the south-west, it runs over Hog's Back the first, as shown in the map; thence towards Hog's Back the second, which it leaves on the north side. Further on, at the head of Leach Lake, there is a stream which divides its waters and flows both into Canada and into The United States. The boundary has been made to run up that stream a short distance from the fork, where the waters divide to a second fork; thence between the streams which unite to form that fork, and then to ascend again the dividing ridge. A monument has been erected at the fork just mentioned, where the waters divide.

As the boundary approaches the valley of Spider River, it bends to the south-east, and, by a wide circuit over high and steep hills, it turns the head of Spider River; thence it bends to the north-west, until it approaches within about 4 miles of Lake Megantic; thence it turns again south, having the valley of Arnold's River on the right, and of Dead River on the left. It leaves Gasford Mountain in Canada, threads its way over very high ground between the head of Arnold's River and the tributaries of the Magalloway; inclines then to the north, to the west, over very rocky mountainous, and difficult country, leaving Gipp's Peak in The United States, and turns, by a sharp angle at Saddle Back, to the south. After that it again inclines to the west, and then to the south, and again to the west, and passes the head of the Connecticut. About 3 miles and a

half east of the head of the Connecticut, there is a division of waters similar to that described near Leach Lake. The boundary runs down a stream from near its source to the fork, where it divides, and then again follows the dividing ridge. The spot is noted on the map.

After the boundary has passed the head of the Connecticut, it runs to the north-west, descending into very low, swampy ground, between the heads of Indian stream and the tributaries of the St. Francis. Thus it passes on, bending again to the south of west, over a high hill, to the source of Hall's stream.

Iron monuments have been erected at intervals along the Highlands, from the source of the south-west branch of the St. John to the source of Hall's stream; the position of each of which is shown upon the maps.

From the source of Hall's stream the boundary descends that river, dividing the islands, which are, however, merely unimportant alluvial deposits, in the manner indicated by the maps, until it reaches the intersection of that stream by the line formerly run by Valentine and Collins as the 45° of north latitude.

At that point a large monument has been erected on the right and a small one on the left bank of this stream. Monuments have also been erected along the bank of this stream, as indicated on the maps.

The line of Valentine and Collins was explored and found by the blazes still remaining in the original forest.

Upon cutting into those blazes, it was seen that, deep-seated in the tree, there was a scar, the surface of the original blaze slightly decayed, and upon counting the rings (which indicate each year's growth of the tree) it was found that the blazes dated back to 1772, 1773, and 1774. The line of Valentine and Collins was run in 1771, 1772, 1773, and 1774. The concidence of the dates of the blazes with those of the above line, confirmed by the testimony of the people of the country, satisfied the Undersigned that the line they had found was that mentioned in the treaty. Along this portion of the boundary which is known as the 45° of Valentine and Collins, and which extends from Hall's stream to St. Regis, there are several interruptions to the blazes, in those parts where clearings have been made, and there the authentic marks of the precise situation of the old line have been lost. In those cases the undersigned have drawn the boundary line straight from the original blazes on

the one side of a clearing to the original blazes on the other side of the same clearing.

It cannot be positively stated that the line, as it has been traced through those clearings, precisely coincides with the old line; but the Undersigned believe that it does not differ materially from it; nor have they had the means of determining a nearer or a surer approximation.

Along this line, at every point of deflection, an iron monument has been erected; also at the crossing of rivers, lakes, and roads. Those which mark deflections are placed, as on the "north line," anglewise with the line; all the others are placed square with it. The maps show the position of each.

On the eastern shore of Lake Memphremagog, an astronomical station was established; and, on a large flat rock of granite, which happened to lie between the astronomical station and the boundary, was cut the following inscription:

BRITISH BOUNDARY COMMISSION.
CAPT. ROBINSON,
Astronomical Station,
422 Feet North.
Meridian Line.

———o———

Boundary Line.
595 feet south.
August, 1845.

A mark was cut upon the stone, as indicated by the dot upon the meridian line above, from which these measurements were made.

At Rouse's Point a monument of wrought stone was set up, at the intersection of the boundary by the meridian of the transit instrument used there by Major Graham; and an inscription was cut upon it, stating the latitude and longitude, the name of the observer and his assistant, the names of the Commissioners, and the territories divided.

To mark the position of the instruments used at the following astronomical stations along the west line, two monuments, within a few feet of each other, have been erected at each station, and they have been placed on the boundary line due north or south of the instrument, as the case may have been.

The stations are:—Lake Memphremagog, Richford, John McCoy's, Trout River.

The boundary along the west line, though very far from being a straight line, is generally about half a mile north of the true parallel of latitude 45° from Hall's Stream to Rouse's Point. At about 28 miles west of Rouse's Point it, however, crosses that parallel to the south, until it reaches Chateauguay River, where it bends northwards and, crossing the parallel again, about 4 miles east of St. Regis, it strikes the St. Lawrence 151 feet north of 45°. At that point, a large monument has been erected, on the bank of the St. Lawrence. Two large monuments have also been erected—one on either side of the River Richelieu, near Rouse's Point.

No marks of the old line were to be found about St. Regis. It was, therefore, agreed to run a line due west from the last blaze which should be found in the woods, on the east side of St. Regis. That blaze occurred about one mile east of the St. Regis River.

The maps, which exhibit the boundary on a scale of 4 inches to one statute mile, consist of 62 consecutive sheets of antiquarian paper, as constructed by the British, and of 61, as constructed by the American Commission. A general map has also been constructed on a scale of 8 miles to one inch, by the British, and of 10 miles to one inch, by the American Commission, upon which the before-mentioned sheets are represented.

The following portions of the boundary have been laid down by the British Commission, on detached maps, on a scale of 12 inches to one mile, which have been signed by both Commissioners.

Grand Falls of the St. John, including the intersection of that river by the north line; Islands of the St. John, the outlet of Lake Pohenagamook, the turning point of the boundary on the north-west branch of the St. John, the intersection of the south-west branch, by the parallel of latitude 46° 25′, the source of the south-west branch, the source of Hall's stream, the intersection of Hall's stream by the west line, Rouse's Point, St. Regis, Derby.

But similar maps have not been prepared by the American Commission, because during the interval between the finishing of the maps of the British Commission and those of the American, it was thought that the maps already constructed, upon a scale of 4 inches to one mile, represented the boundary with sufficient clearness and accuracy.

The astronomical observations were begun at the Grand Falls, early in June, 1843, and were carried up the St. John

River to the north-west branch by a chain of stations, which, together with the results obtained, are tabulated in the appendix accompanying this report.

From the valley of the St. John, an astronomical connection was made with Quebec, and thence to Montreal and so to Rouse's Point. From Rouse's Point, a connection was obtained with Cambridge University, near Boston.

The astronomical stations on the west line were:

Intersection of Hall's stream by the west line, Lake Memphremagog, Richford, Rouse's Point, John McCoy's, Trout River, St. Regis.

Latitude was also obtained at an astronomical station, established for the purpose, at the head of the Connecticut.

Volumes containing the astronomical observations of both Commissions are herewith submitted. From them, it will be observed, that the results for absolute longitude, obtained by the British and American astronomers, do not agree. It being a difference in no way affecting the survey of the boundary line, the Undersigned do not feel called upon to attempt to reconcile it. The data upon which those results are based may be seen in the volumes of observations accompanying this report.

In the appendix will be found, in a tabular form, the following:

An abstract of the survey of the boundary along the north line.

An abstract of the survey of the boundary along the south-west line.

An abstract of the survey of the boundary along the south line.

An abstract of the survey of the boundary along the Highlands.

An abstract of the survey of the boundary along the west line.

The position of the monuments erected on the south-west branch of the St. John, and on Hall's stream.

The distribution of the islands of the St. John, and the monuments on them.

The guide lines and offsets run by each Commission for the survey of the Highlands.

The azimuths of verification for the survey of the Highlands.

The latitudes and longitudes obtained from the astronomical observations.

The comparative longitudes obtained, and the methods used for the purpose.

Upon comparing the maps of the two Commissions, it will be seen that the American Commission numbers two monuments more than the British. Those are to be found, one on the "Fourth Island," in the River St. John, and the other on the Highlands, between the source of the south-west branch of the River St. John and the Kennebec road.

On the maps of the British Commission, representing the "west line," the name of the town of "Derby" has been improperly placed north of the line, instead of south of it. Also, on the same maps, the direction of Salmon River, near the western extremity of the "west line," has been incorrectly laid down from the boundary line northwards. A direction has been given to it north-easterly instead of north-westerly.

The above two corrections the British Commissioner is authorized to make on his maps, after his return to England.

To avoid unnecessary delay in making their joint report, the Undersigned have attached their signatures to the maps, although the lettering of some of the astronomical stations upon the maps of the American Commission, as well as the alterations before-mentioned in the maps of the British Commission, are yet to be made. But in the maps of both, the boundary has been laid down accurately and definitively, and the Undersigned engage that it shall not be altered in any respect.

In conclusion the Undersigned, have the honour to report, that the line of boundary described in the foregoing statement has been run, marked and surveyed, and the accompanying maps faithfully constructed from that survey.

The Undersigned take leave to add, that the most perfect harmony has subsisted between the two Commissions from first to last, and that no differences have arisen between the Undersigned in the execution of the duties entrusted to them.

Signed and sealed in duplicate, at the City of Washington, this 28th day of June, in the year of Our Lord, 1847.

(L.S.) J. B. BUCKNALL ESTCOURT,
*Lieutenant Colonel.*
*Her Britannic Majesty's Commissioner.*

(L.S.) ALBERT SMITH,
*United States Commissioner.*

NOTE.—The astronomical computations of the American Commission not being completed, and it being unnecessary to defer the signing of the report on that account, the American Commissioner engages to transmit them, with any other papers or tables not yet finished, as soon as they shall be so, to the British Commissioner, through the American Minister, resident in London, to whom upon delivery of the documents, the British Commissioner will give a receipt, to be transmitted to the American Commissioner.

(L.S.) J. B. BUCKNALL ESTCOURT,
*Lieutenant Colonel,*
*Her Britannic Majesty's Commissioner*
*of Boundary.*

(L.S.) ALBERT SMITH,
*United States' Commissioner.*

## 1846.

## [1] TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA, FOR THE SETTLEMENT OF THE OREGON BOUNDARY.

SIGNED AT WASHINGTON, JUNE 15, 1846.

*(Ratifications exchanged at London, July 17, 1846.)*

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, deeming it to be desirable for the future welfare of both countries, that the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the Northwest Coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two parties over the said territory, have respectively named Plenipotentiaries to treat and agree concerning the terms of such settlement, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on her part, appointed the Right Honourable Richard Pakenham, a member of Her Majesty's

[1] From British & Foreign State Papers, Vol. 34, p. 14.

Most Honourable Privy Council, and Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and the President of the United States of America has, on his part, furnished with full powers,, James Buchanan, Secretary of State of the United States; who, after having communicated to each other their respective full powers found in good and due form, have agreed upon and concluded the following Articles:—

Article I. From the point on the 49th parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said 49th parallel of north latitude, to the middle of the channel which separates the continent from Vancouver's Island; and thence southerly, through the middle of the said channel, and of Fuca's Straits to the Pacific Ocean; provided however that the navigation of the whole of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both parties.

II. From the point at which the 49th parallel of north latitude shall be found to intersect the great northern branch of the Columbia river, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers; it being understood, that all the usual portages along the line thus described, shall in like manner be free and open.

In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood, that nothing in this Article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers, not inconsistent with the present Treaty.

III. In the future appropriation of the territory south of the 49th parallel of north latitude, as provided in the 1st

Article of this Treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

IV. The farms, lands, and other property of every description, belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia river, shall be confirmed to the said Company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States' Government should signify a desire to obtain possession of the whole or of any part thereof, the property so required shall be transferred to the said government at a proper valuation, to be agreed upon between the Parties.

V. The present Treaty shall be ratified by Her Britannic Majesty, and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at London at the expiration of six months from the date hereof, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington, the 15th day of June, in the year of our Lord, 1846.

[L.S.] RICHARD PAKENHAM.

[L.S.] JAMES BUCHANAN.

## [1] DECLARATION BETWEEN GREAT BRITAIN AND THE UNITED STATES, APPROVING THE BOUNDARY MAPS, PREPARED BY THE JOINT COMMISSIONERS APPOINTED UNDER ARTICLE I. OF THE TREATY OF 15TH JUNE, 1846 (OREGON TERRITORY).—SIGNED AT WASHINGTON, FEBRUARY 24, 1870.

The Undersigned, Edward Thornton, Esquire, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States, and Hamilton Fish, Secretary of

[1] From British & Foreign State Papers, Vol. 63, p. 1053.

State of the United States, duly authorized by their respective Governments, having met together;

The set of maps, 7 in number, which have been prepared by the Commissioners appointed by the two Powers to survey and mark out the boundary between their respective territories under the first Article of the Treaty concluded between them at Washington, on the 15th of June, 1846, having been produced;

And it appearing that they do correctly indicate the said boundary from the point where the boundary laid down in Treaties and Conventions prior to June 15, 1846, terminates westward on the 49th parallel of north latitude to the eastern shore of the Gulf of Georgia, which boundary has been defined by the Commissioners by marks upon the ground;

The Undersigned, without prejudice to the rights of their respective Governments as to the settlement and the determination of the remainder of the said Boundary, hereby declare that the said maps certified and authenticated under the signatures of Colonel John Summerfield Hawkins, Her Britannic Majesty's Commissioner, and of Archibald Campbell, Esquire, the Commissioner of the United States, and of which duplicate copies similarly certified and authenticated are in the possession of the Government of Her Britannic Majesty, have been duly examined and considered, and, as well as the marks by which the boundary to the eastern shore of the Gulf of Georgia has been defined upon the ground, are approved, agreed to, and adopted by both Governments.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Washington, the 24th day of February, in the year of Our Lord, 1870.

[L.S.] EDWARD THORNTON.

[L.S.] HAMILTON FISH.

## 1850.

## [1] CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA, RELATIVE TO THE ESTABLISHMENT OF A COMMUNICATION BY SHIP-CANAL BETWEEN THE ATLANTIC AND PACIFIC OCEANS.[2]—SIGNED AT WASHINGTON, APRIL 19, 1850.

(*Ratifications exchanged at Washington, July 4, 1850.*)

Her Britannic Majesty and the United States of America being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a Convention their views and intentions, with reference to any means of communication by ship-canal which may be constructed between the Atlantic and Pacific Oceans by the way of the River St. Juan de Nicaragua, and either or both of the Lakes Nicaragua or Managua, to any port or place on the Pacific Ocean.

Her Britannic Majesty has conferred Full powers on the Right Honourable Sir Henry Lytton Bulwer, a Member of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States; and the President of the United States, on John M. Clayton, Secretary of State of the United States, for the aforesaid purpose; and the said Plenipotentiaries having exchanged their Full powers, which were found to be in proper form, have agreed to the following Articles:

Art. I.— The Governments of Great Britain and the United States hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise

[1] From British & Foreign State Papers, Vol. 38, p. 4.

[2] Superseded by the Treaty of 18 November 1901 (See page 131), the objects of which however are to be carried into effect "without impairing the 'general principle' of neutralization established in Article VIII" of this Treaty.

any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, nor will either make use of any protection which either affords, or may afford, or any alliance which either has, or may have, to or with any State or People, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same. Nor will Great Britain or the United States take advantage of any intimacy, or use any alliance, connexion, or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the subjects or citizens of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered, on the same terms, to the subjects or citizens of the other.

II.—Vessels of Great Britain or the United States traversing the said canal shall, in case of war between the Contracting Parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the 2 ends of the said canal as may hereafter be found expedient to establish.

III.—In order to secure the construction of the said canal, the Contracting Parties engage that, if any such canal shall be undertaken upon fair and equitable terms, by any parties having the authority of the local Government or Governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used or to be used for that object, shall be protected, from the commencement of the said Canal to its completion, by the Governments of Great Britain and the United States, from unjust detention, confiscation, seizure, or any violence whatsoever.

IV.—The Contracting Parties will use whatever influence they respectively exercise with any State, States, or Governments possessing, or claiming to possess, any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or Governments to facilitate the construction of the said canal by every means in their power; and furthermore, Great Britain and the United States agree to use their good offices, wherever or however it may be most expedient, in

order to procure the establishment of 2 free ports, one at each end of the said canal.

V.—The Contracting Parties further engage that, when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of Great Britain and the United States, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments or either Government should deem, that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon, as are contrary to the spirit and intention of this Convention; either by making unfair discriminations in favour of the commerce of one of the Contracting Parties over the commerce of the other, or by imposing oppressive exactions, or unreasonable tolls upon passengers, vessels, goods, wares, merchandize, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

VI.—The Contracting Parties in this Convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honour and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated; and the Contracting Parties likewise agree that each shall enter into Treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this Convention; namely, that of constructing and maintaining the said canal, as a ship communication between the 2 Oceans, for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such

Treaty stipulations; and should any differences arise, as to right or property over the territory through which the said canal shall pass, between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of Great Britain and the United States will use their good offices, to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the Contracting Parties.

VII.—It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of Great Britain and the United States determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this Convention; and if any persons or company should already have, with any State through which the proposed ship-canal may pass, a contract for the construction of such a canal as that specified in this Convention, to the stipulations of which contract neither of the Contracting Parties in this Convention have any just cause to object, and the said persons or company shall, moreover, have made preparations and expended time, money, and trouble on the faith of such contract, it is hereby agreed, that such persons or company shall have a priority of claim over every other person, persons, or company, to the protection of the Governments of Great Britain and the United States, and be allowed a year, from the date of the exchange of the ratifications of this Convention, for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of Great Britain and the United States shall be free to afford their protection to any other persons or company, that shall be prepared to commence and proceed with the construction of the canal in question.

VIII.—The Governments of Great Britain and the United States having not only desired, in entering into this Convention, to accomplish a particular object, but also to establish a general principle; they hereby agree to extend their protection by Treaty stipulations to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America; and especially to the inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this Article specified, it is always understood by Great Britain and the United States, that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the subjects and citizens of Great Britain and the United States on equal terms, shall also be open on like terms to the subjects and citizens of every other State, which is willing to grant thereto such protection as Great Britain and the United States engage to afford.

IX.—The Ratifications of this Convention shall be exchanged at Washington within 6 months from this day, or sooner if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done at Washington, the 19th day of April, Anno Domini 1850.

(L.S.) HENRY LYTTON BULWER.

(L.S.) JOHN M. CLAYTON.

## 1850.

### PROTOCOL OF CONFERENCE BETWEEN GREAT BRITAIN AND THE UNITED STATES, RELATIVE TO THE CESSION BY GREAT BRITAIN TO THE UNITED STATES OF HORSESHOE REEF, ON LAKE ERIE, FOR THE PURPOSE OF ERECTING A LIGHTHOUSE.—LONDON, DECEMBER 9, 1850.

Abbott Lawrence, Esquire, the Envoy Extraordinary and Minister Plenipotentiary of the United States of America at the Court of Her Britannic Majesty, and Viscount Palmerston, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, having met together at the Foreign Office:

Mr. Lawrence stated that he was instructed by his Government to call the attention of the British Government to the dangers to which the important commerce of the great lakes of the interior of America, and more particularly that concentrating at the town of Buffalo, near the entrance of the Niagara River from Lake Erie, and that passing through the Welland Canal, is exposed from the want of a lighthouse near the outlet of Lake Erie. Mr. Lawrence stated that the current of the Niagara River is at that spot very strong, and increases in rapidity as the river approaches the falls; and as that part of the river is necessarily used for the purpose of a harbour, the Congress of the United States, in order to guard against the danger arising from the rapidity of the current, and from other local causes, made an appropriation for the construction of a lighthouse at the outlet of the lake, but, on a local survey being made, it was found that the most eligible site for the erection of the lighthouse was a reef known by the name of the "Horseshoe Reef," which is within the dominion of Her Britannic Majesty; and Mr. Lawrence was therefore instructed by the Government of the United States to ask whether the Government of Her Britannic Majesty will cede to the United States the Horseshoe Reef, or such part thereof as may be necessary for the purpose of erecting a lighthouse, and, if not, whether the British Government will itself erect and maintain a lighthouse on the said reef.

Viscount Palmerston stated to Mr. Lawrence in reply that Her Majesty's Government concurs in opinion with the Govern-

[1] From British & Foreign State Papers, Vol. 63, p. 890.

ment of the United States, that the proposed lighthouse would be of great advantage to all vessels navigating the lakes; and that Her Majesty's Government is prepared to advise Her Majesty to cede to the United States such portion of the Horseshoe Reef as may be found requisite for the intended lighthouse, provided the Government of the United States will engage to erect such lighthouse, and to maintain a light therein; and provided no fortification be erected on the said reef.

Mr. Lawrence and Viscount Palmerston, on the part of their respective Governments, accordingly agreed that the British Crown should make this cession, and that the United States should accept it, on the above-mentioned conditions.

ABBOTT LAWRENCE.

PALMERSTON.

## 1870.

## [1] CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA RELATIVE TO NATURALIZATION.—SIGNED AT LONDON, MAY 13, 1870.

(*Ratifications exchanged at London, August 10, 1870.*)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being desirous to regulate the citizenship of British subjects who have emigrated or who may emigrate from the British Dominions to the United States of America, and of citizens of the United States of America who have emigrated or who may emigrate from the United States of America to the British Dominions, have resolved to conclude a Convention for that purpose, and have named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble

[1] From British & Foreign State Papers, Vol. 60, p. 36.

Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, John Lothrop Motley, Esquire, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following Articles:

Art. I.—British subjects who have become, or shall become, and are naturalized according to law within the United States of America as citizens therof, shall, subject to the provisions of Article II, be held by Great Britain to be in all respects and for all purposes citizens of the United States, and shall be treated as such by Great Britain.

Reciprocally, citizens of the United States of America who have become, or shall become, and are naturalized according to law within the British dominions as British subjects, shall, subject to the provisions of Article II, be held by The United States to be in all respects and for all purposes British subjects and shall be treated as such by The United States.

II.—Such British subjects as aforesaid who have become and are naturalized as citizens within The United States, shall be at liberty to renounce their naturalization and to resume their British nationality, provided that such renunciation be publicly declared within two years after the 12th day of May, 1870.

Such citizens of The United States as aforesaid who have become and are naturalized within the dominions of Her Britannic Majesty as British subjects, shall be at liberty to renounce their naturalization and to resume their nationality as citizens of The United States, provided that such renunciation be publicly declared within two years after the exchange of the ratifications of the present Convention.

The manner in which this renunciation may be made and publicly declared shall be agreed upon by the Governments of the respective countries.

III.—If any such British subject as aforesaid, naturalized in The United States, should renew his residence within the dominions of Her Britannic Majesty, Her Majesty's Govern-

ment may, on his own application and on such conditions as that Government may think fit to impose, re-admit him to the character and privileges of a British subject, and The United States shall not, in that case, claim him as a citizen of The United States on account of his former naturalization.

In the same manner, if any such citizen of The United States as aforesaid, naturalized within the dominions of Her Britannic Majesty, should renew his residence in The United States, The United States Government may, on his own application and on such conditions as that Government may think fit to impose, re-admit him to the character and privileges of a citizen of The United States, and Great Britain shall not, in that case, claim him as a British subject on account of his former naturalization.

IV.—The present Convention shall be ratified by Her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at London as soon as may be within 12 months from the date hereof.

In witness whereof, the respective Plenipotentiaries have signed the same, and have fixed thereto their respective seals.

Done at London, the 13th day of May, in the year of Our Lord, 1870.

(L.S.) CLARENDON.
(L.S.) JOHN LOTHROP MOTLEY.

## 1871.

[1] CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA, SUPPLEMENTARY TO THE CONVENTION OF MAY 13, 1870, RESPECTING NATURALIZATION.—SIGNED AT WASHINGTON, FEBRUARY 23, 1871.

(*Ratifications exchanged at Washington, May 4, 1871.*)

Whereas by Article II of the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and of the United States of America for regulating

[1] From British & Foreign State Papers, Vol. 61, p. 38.

the citizenship of subjects and citizens of the Contracting Parties who have emigrated or may emigrate from the dominions of the one to those of the other party, signed at London, on the 13th of May, 1870, it was stipulated that the manner in which the renunciation by such subjects and citizens of their naturalization, and the resumption of their native allegiance, may be made and publicly declared, should be agreed upon by the Governments of the respective countries; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of The United States of America, for the purpose of effecting such agreement, have resolved to conclude a Supplemental Convention, and have named as their Plenipotentiaries, that is to say: Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, and Her Envoy Extraordinary and Minister Plenipotentiary to The United States of America; and the President of The United States of America, Hamilton Fish, Secretary of State; who have agreed as follows:

Art. I.—Any person being originally a citizen of The United States who had, previously to May 13, 1870, been naturalized as a British subject, may at any time before August 10, 1872, and any British subject who, at the date first aforesaid, had been naturalized as a citizen within The United States may, at any time before May 12, 1872, publicly declare his renunciation of such naturalization by subscribing an instrument in writing, substantially in the form hereunto appended, and designated as Annex A.

Such renunciation by an original citizen of The United States, of British nationality, shall, within the territories and jurisdiction of The United States, be made in duplicate in the presence of any Court authorised by law for the time being to admit aliens to naturalization, or before the clerk or prothonotary of any such Court; if the declarant be beyond the territories of The United States it shall be made in duplicate, before any Diplomatic or Consular officer of The United States. One of such duplicates shall remain of record in the custody of the Court or officer in whose presence it was made; the other shall be, without delay, transmitted to the Department of State.

Such renunciation, if declared by an original British subject, of his acquired nationality as a citizen of The United

States, shall, if the declarant be in the United Kingdom of Great Britain and Ireland, be made in duplicate, in the presence of a justice of the peace; if elsewhere in Her Britannic Majesty's dominions, in triplicate, in the presence of any judge of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being, authorized by law, in the place in which the declarant is to administer an oath for any judicial or other legal purpose; if out of Her Majesty's dominions, in triplicate, in the presence of any officer in the Diplomatic or Consular Service of Her Majesty.

II.—The Contracting Parties hereby engage to communicate each to the other, from time to time, lists of the persons who, within their respective dominions and territories, or before their Diplomatic and Consular officers have declared their renunciation of naturalization, with the dates and places of making such declarations, and such information as to the abode of the declarants, and the times and places of their naturalization, as they may have furnished.

III.—The present Convention shall be ratified by Her Britannic Majesty, and by the President of The United States, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at Washington as soon as may be convenient.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Washington, the 23rd day of February, in the year of Our Lord, 1871.

(L.S.) EDWD. THORNTON.
(L.S.) HAMILTON FISH.

ANNEX (A).

I, A. B., of (insert abode), being originally a citizen of the United States of America (or a British subject), and having become naturalized within the dominions of Her Britannic Majesty as a British subject (or as a citizen within the United States of America), do hereby renounce my naturalization as a British subject (or citizen of the United States); and

declare that it is my desire to resume my nationality as a citizen of the United States (or British subject).

(Signed) A. B.

Made and subscribed before me in (insert Country or other subdivision, and State, Province, Colony, Legation, or Consulate) this day of , 187 .

(Signed) E. F.,
*Justice of the Peace (or other title).*

(L.S.) EDWD. THORNTON.
(L.S.) HAMILTON FISH.

## 1871.

[1] TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA, FOR THE AMICABLE SETTLEMENT OF ALL CAUSES OF DIFFERENCE BETWEEN THE TWO COUNTRIES ("ALABAMA" CLAIMS; FISHERIES; CLAIMS OF CORPORATIONS, COMPANIES OR PRIVATE INDIVIDUALS; NAVIGATION OF RIVERS AND LAKES; SAN JUAN WATER BOUNDARY; AND RULES DEFINING DUTIES OF A NEUTRAL GOVERNMENT DURING WAR).—SIGNED AT WASHINGTON, MAY 8, 1871.

*(Ratifications exchanged at London, June 17, 1871.)*

Her Britannic Majesty and the United States of America being desirous to provide for an amicable settlement of all causes of difference between the two countries, have for that purpose appointed their respective plenipotentiaries, that is to say:

Her Britannic Majesty on Her part has appointed as Her High Commissioners and Plenipotentiaries, the Right Honourable George Frederick Samuel, Earl de Grey and Earl of Ripon, Viscount Goderich, Baron Grantham, a Baronet, a Peer of the United Kingdom, Lord President of Her Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, &c.; the Right Honourable Sir Stafford Henry North-

[1] From British & Foreign State Papers, Vol. 61, p. 40.

cote, Baronet, one of Her Majesty's Most Honourable Privy Council, a Member of Parliament, a Companion of the Most Honourable Order of the Bath, &c.; Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America; Sir John Alexander Macdonald, Knight Commander of the Most Honourable Order of the Bath, a Member of Her Majesty's Privy Council for Canada, and Minister of Justice and Attorney General of Her Majesty's Dominion of Canada; and Mountague Bernard, Esquire, Chichele Professor of International Law in the University of Oxford:

And the President of the United States has appointed on the part of the United States, as Commissioners in a Joint High Commission and Plenipotentiaries, Hamilton Fish, Secretary of State; Robert Cumming Schenck, Envoy Extraordinary and Minister Plenipotentiary to Great Britain; Samuel Nelson, an associate justice of the Supreme Court of the United States; Ebenezer Rockwood Hoar, of Massachusetts; and George Henry Williams, of Oregon.

And the said Plenipotentiaries, after having exchanged their full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

Article I. Whereas differences have arisen between the Government of the United States and the Government of Her Britannic Majesty, and still exist, growing out of the Acts committed by the several vessels which have given rise to the claims generically known as the *Alabama* Claims:

And whereas Her Britannic Majesty has authorized her High Commissioners and Plenipotentiaries to express in a friendly spirit, the regret felt by Her Majesty's Government for the escape, under whatever circumstances, of the *Alabama* and other vessels from British ports, and for the depredations committed by those vessels;

Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, which are not admitted by Her Britannic Majesty's Government, the High Contracting Parties agree that all the said claims, growing out of Acts committed by the aforesaid vessels, and generically known as the *Alabama* Claims, shall be referred to a tribunal of arbitration to be composed of five arbitrators to be appointed in the fol-

lowing manner, that is to say: one shall be named by Her Britannic Majesty; one shall be named by the President of the United States; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.

In case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or in the event of either of the said Arbitrators omitting or declining or ceasing to act as such, Her Britannic Majesty, or the President of the United States, or His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, as the case may be, may forthwith name another person to act as Arbitrator in the place and stead of the Arbitrator originally named by such head of a State.

And, in the event of the refusal or omission for two months after the receipt of the request from either of the High Contracting Parties, of His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil to name an Arbitrator either to fill the original appointment or in the place of one who may have died, be absent, or incapacitated, or who may omit, decline, or from any cause cease to act as such Arbitrator, His Majesty the King of Sweden and Norway shall be requested to name one or more persons, as the case may be, to act, as such Arbitrator or Arbitrators.

II. The Arbitrators shall meet at Geneva, in Switzerland, at the earliest convenient day after they shall have been named, and shall proceed impartially and carefully to examine and decide all questions that shall be laid before them on the part of the Governments of Her Britannic Majesty and the United States respectively. All questions considered by the Tribunal, including the final award, shall be decided by a majority of all the Arbitrators.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent to represent it generally in all matters connected with the Arbitration.

III. The written or printed case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the

other Party as soon as may be after the organization of the Tribunal, but within a period not exceeding 6 months from the date of the exchange of the ratifications of this Treaty.

IV. Within four months after the delivery on both sides of the written or printed case, either Party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a Counter-Case and additional documents, correspondence and evidence, in reply to the case, documents, correspondence, and evidence, so presented, by the other Party.

The Arbitrators may, however, extend the time for delivering such Counter-Case, documents, correspondence, and evidence, when in their judgment, it becomes necessary, in consequence of the distance of the place from which the evidence to be presented is to be procured.

If in the case submitted to the Arbitrators, either Party shall have specified or alluded to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrators may require.

V. It shall be the duty of the Agent of each Party, within two months after the expiration of the time limited for the delivery of the Counter-Case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other Party a written or printed argument showing the points and referring to the evidence upon which his Government relies; and the arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument or oral argument by counsel upon it; but in such case the other Party shall be entitled to reply either orally, or in writing, as the case may be.

VI. In deciding the matters submitted to the Arbitrators they shall be governed by the following three rules, which are agreed upon by the High Contracting Parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to have been applicable to the case.

RULES.

A neutral Government is bound—

First.—To use due diligence to prevent the fitting out, arming or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly.—Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly.—To exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Her Britannic Majesty has commanded Her High Commissioners and Plenipotentiaries to declare that Her Majesty's Government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in Article I arose, but that Her Majesty's Government, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that, in deciding the questions between the two countries arising out of those claims, the Arbitrators should assume that Her Majesty's Government had undertaken to act upon the principles set forth in these rules.

And the High Contracting Parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime Powers and to invite them to accede to them.

VII. The decision of the tribunal shall, if posible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The said Tribunal shall first determine as to each vessel separately whether Great Britain has, by any act or omission,

failed to fulfil any of the duties set forth in the foregoing three rules, or recognized by the principles of international law not inconsistent with such rules, and shall certify such fact as to each of the said vessels. In case the Tribunal find that Great Britain has failed to fulfil any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it; and in such case the gross sum so awarded shall be paid in coin by the Government of Great Britain to the Government of the United States at Washington within twelve months after the date of the award.

The award shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States for his Government.

VIII. Each Government shall pay its own Agent and provide for the proper remuneration of the counsel employed by it, and of the Arbitrator appointed by it, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

IX. The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

X. In case the Tribunal finds that Great Britain has failed to fulfil any duty or duties as aforesaid, and does not award a sum in gross, the High Contracting Parties agree that a Board of Assessors shall be appointed to ascertain and determine what claims are valid, and what amount or amounts shall be paid by Great Britain to the United States on account of the liability arising from such failure as to each vessel, according to the extent of such liability as decided by the Arbitrators.

The Board of Assessors shall be constituted as follows: One member thereof shall be named by Her Britannic Majesty; one member thereof shall be named by the President of the United States, and one member thereof shall be named by the Representative at Washington of His Majesty the King of Italy, and in case of a vacancy happening from any cause, it shall be filled in the same manner in which the original appointment was made.

As soon as possible after such nominations the Board of Assessors shall be organized in Washington, with power to hold their sittings there, or in New York, or in Boston. The members thereof shall severally subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment and according to justice and equity, all matters submitted to them, and shall forthwith proceed, under such rules and regulations as they may prescribe, to the investigation of the claims which shall be presented to them by the Government of the United States, and shall examine and decide upon them in such order and manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the Governments of Great Britain and of the United States respectively. They shall be bound to hear on each separate claim, if required, one person on behalf of each Government as Counsel or Agent. A majority of the Assessors in each case shall be sufficient for a decision.

The decision of the Assessors shall be given upon each claim in writing, and shall be signed by them respectively, and dated.

Every claim shall be presented to the Assessors within six months from the day of their first meeting; but they may, for good cause shown, extend the time for the presentation of any claim to a further period not exceeding three months.

The Assessors shall report to each Government at or before the expiration of one year from the date of their first meeting, the amount of claims decided by them up to the date of such report; if further claims then remain undecided, they shall make a further report at or before the expiration of two years from the date of such first meeting; and in case any claims remain undetermined at that time, they shall make a final report within a further period of six months.

The report or reports shall be made in duplicate, and one copy thereof shall be delivered to the Representative of Her Britannic Majesty at Washington, and one copy thereof to the Secretary of State of the United States.

All sums of money which may be awarded under this Article shall be payable at Washington, in coin, within twelve months after the delivery of each report.

The Board of Assessors may employ such clerks as they shall think necessary.

The expenses of the Board of Assessors shall be borne equally by the two Governments, and paid from time to time, as may

be found expedient, on the production of accounts certified by the Board. The remuneration of the Assessors shall also be paid by the two Governments in equal moieties in a similar manner.

XI. The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration and of the Board of Assessors, should such Board be appointed, as a full, perfect, and final settlement of all claims hereinbefore referred to; and further engage that every such claim, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the Tribunal or Board, shall, from and after the conclusion of the proceedings of the Tribunal or Board, be considered and treated as finally settled, barred, and thenceforth inadmissible.

XII. The High Contracting Parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the Government of Her Britannic Majesty, arising out of acts committed against the persons or property of citizens of the United States during the period between the 13th of April, 1861, and the 9th of April, 1865, inclusive, not being claims growing out of the acts of the vessels referred to in Article I of this Treaty; and all claims, with the like exception, on the part of corporations, companies, or private individuals, subjects of Her Britannic Majesty, upon the Government of the United States, arising out of acts committed against the persons or property of subjects of Her Britannic Majesty during the same period, which may have been presented to either Government for its interposition with the other, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in Article XIV of this Treaty, shall be referred to three Commissioners, to be appointed in the following manner, that is to say: One Commissioner shall be named by Her Britannic Majesty, one by the President of the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date of the exchange of the ratifications of this Treaty, then the third Commissioner shall be named by the Representative at Washington, of His Majesty the King of Spain. In case of the death, absence, or incapacity of any Commissioner, or in the

event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The Commissioners so named shall meet at Washington at the earliest convenient period after they have been respectively named; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States respectively; and such declaration shall be entered on the record of their proceedings.

XIII. The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to them. They shall investigate and decide such claims in such order and such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of their respective Governments in support of, or in answer to, any claim; and to hear, if required, one person on each side, on behalf of each Government as counsel or agent for such Government, on each and every separate claim. A majority of the Commissioners shall be sufficient for an award in each case. The award shall be given upon each claim in writing, and shall be signed by the Commissioners assenting to it. It shall be competent for each Government to name one person to attend the Commissioners as its agent to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The High Contracting Parties hereby engage to consider the decision of the Commissioners as absolutely final and conclusive upon each claim decided upon by them, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

XIV. Every claim shall be presented to the Commissioners within 6 months from the day of their first meeting, unless in

any case where reasons for delay shall be established to the satisfaction of the Commissioners; and then, and in any such case, the period for presenting the claim may be extended by them to any time not exceeding 3 months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners to decide in each case whether any claim has or has not been duly made, preferred, and laid before them, either wholly or to any and what extent, according to the true intent and meaning of this Treaty.

XV. All sums of money which may be awarded by the Commissioners on account of any claim shall be paid by the one Government to the other, as the case may be, within 12 months after the date of the final award, without interest, and without any deduction save as specified in Article XVI of this Treaty.

XVI. The Commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a Secretary, and any other necessary officer or officers, to assist them in the transaction of the business which may come before them.

Each Government shall pay its own Commissioner and Agent or counsel. All other expenses shall be defrayed by the two Governments in equal moieties.

The whole expenses of the Commission, including contingent expenses, shall be defrayed by a rateable deduction on the amount of the sums awarded by the Commissioners; provided always that such deduction shall not exceed the rate of 5 per cent on the sum so awarded.

XVII. The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full, perfect, and final settlement of all such claims as are mentioned in ArticleXII of this Treaty upon either Government; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled, barred, and thenceforth inadmissible.

*XVIII. It is agreed by the High Contracting Parties, that, in addition to the liberty secured to the United States' fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years, mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks of the Provinces of Quebec, Nova Scotia and New Brunswick, and the Colony of Prince Edward's Island, and of the several islands thereunto adjacent without being restricted to any distance from the shore, with permission to land upon the said coasts, and shores, and islands, and also upon the Magdalen Islands, for the purpose of drying their nets, and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, andall other fisheries in rivers and the mouths of rivers are hereby reserved exclusively for British fishermen.

*XIX. It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the 39th parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbours, and creeks of the said sea-coasts and shores of the United States and of the said islands without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and

all other fisheries in rivers and mouths of rivers are hereby reserved exclusively for fishermen of the United States.

*XX. It is agreed that the places designated by the Commissioners appointed under Article I of the Treaty between Great Britain and the United States, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's Dominions and the United States, as places reserved from the common right of fishing under that Treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding Articles. In case any question should arise between the Governments of Her Britannic Majesty and of the United States as to the common right of fishing in places not thus designated as reserved, it is agreed that a Commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties, and authority as the Commission appointed under the said Article I of the Treaty of the 5th of June, 1854.

*XXI. It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish-oil and fish of all kinds (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the Dominion of Canada, or of Prince Edward's Island, or of the United States, shall be admitted into each country respectively, free of duty.

*XXII. Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this Treaty are of greater value than those accorded by Articles XIX and XXI of this Treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States; it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty; and that any sum of money which the Commissioners may so award shall be paid by the United States' Government, in a gross sum, within twelve months after such award shall have been given.

*XXIII. The Commissioners referred to in the preceding Article shall be appointed in the following manner, that is to say: One Commissioner shall be named by Her Britannic Majesty, one by the President of the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this Article shall take effect, then the third Commissioner shall be named by the representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The Commissioners so named shall meet in the city of Halifax in the Province of Nova Scotia, at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to the best of their judgment, and according to justice and equity; and such declaration shall be entered on the record of their proceedings.

Each of the High Contracting Parties shall also name one person to attend the Commission as its Agent, to represent it generally in all matters connected with the Commission.

*XXIV. The proceedings shall be conducted in such order as the Commissioners appointed under Articles XXII and XXIII of this Treaty shall determine. They shall be bound to receive such oral or written testimony as either Government may present. If either party shall offer oral testimony, the other Party shall have the right of cross-examination, under such rules as the Commissioners shall prescribe.

If, in the Case submitted to the Commissioners, either party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Commissioners, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Commissioners may require.

The case on either side shall be closed within a period of six months from the date of the organization of the Commission, and the Commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the Commissioners under the circumstances contemplated in Article XXIII of this Treaty.

*XXV. The Commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary and any other necessary officer or officers to assist them in the transaction of the business which may come before them.

Each of the High Contracting Parties shall pay its own Commissioner and Agent or Counsel; all other expenses shall be defrayed by the two Governments in equal moieties.

XXVI. The navigation of the River St. Lawrence, ascending and descending from the 45th parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the citizens of the United States, subject to any laws and regulations of Great Britain or of the Dominion of Canada, not inconsistent with such privilege of free navigation.

The navigation of the Rivers Yukon, Porcupine, and Stikine, ascending and descending from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.

XXVII. The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line

between the possessions of the High Contracting Parties on terms of equality with the inhabitants of the United States.

XXVIII. The navigation of Lake Michigan shall also, for the term of years mentioned in Article XXXIII of this Treaty, be free and open for the purposes of commerce to the subjects of Her Britannic Majesty, subject to any laws and regulations of the United States, or of the States bordering thereon, not inconsistent with such privilege of free navigation.

XXIX. It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been, or may from time to time be, specially designated by the President of the United States, and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper Custom House and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue as the Government of the United States may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without the payment of duties, from such possessions through the territory of the United States for export from the said ports of the United States.

It is further agreed that, for the like period, goods, wares, or merchandise arriving at any of the ports of Her Britannic Majesty's possessions in North America, and destined for the United States, may be entered at the proper Custom House, and conveyed in transit, without the payment of duties, through the said possessions, under such rules and regulations and conditions for the protection of the revenue, as the Governments of the said possessions may from time to time prescribe; and under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without payment of duties, from the United States through the said possessions to other places in the United States, or for export from ports in the said possessions.

XXX. It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, subjects of Her Britannic Majesty may carry in British vessels, without payment of

duty, goods, wares, or merchandise from one port or place within the territory of the United States upon the St. Lawrence, the Great Lakes, and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid; provided, that a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

Citizens of the United States may for the like period carry in United States' vessels, without payment of duty, goods, wares, or merchandise from one port or place within the possessions of Her Britannic Majesty in North America, to another port or place within the said possessions; provided, that a portion of such transportation is made through the territory of the United States by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

The Government of the United States further engages not to impose any export duties on goods, wares, or merchandise carried under this Article through the territory of the United States; and Her Majesty's Government engages to urge the Parliament of the Dominion of Canada and the legislatures of the other Colonies not to impose any export duties on goods, wares, or merchandise carried under this Article; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that such duties are imposed, the right of carrying granted under this Article in favour of the subjects of Her Britannic Majesty.

The Government of the United States may suspend the right of carrying granted in favour of the subjects of Her Britannic Majesty under this Article, in case the Dominion of Canada should, at any time, deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

XXXI. The Government of Her Britannic Majesty further engages to urge upon the Parliament of the Dominion of Canada and the Legislature of New Brunswick, that no export duty, or other duty, shall be levied on lumber or timber of any

kind cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick. And, in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this Treaty, it is agreed that the Government of the United States may suspend the right of carrying hereinbefore granted under Article XXX of this Treaty for such period as such export or other duty may be levied.

*XXXII. It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this Treaty, inclusive, shall extend to the Colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States, shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing Articles into effect, then this Article shall be of no effect; but the omission to make provision by law to give it effect, by either of the Legislative bodies aforesaid, shall not in any way impair any other Articles of this Treaty.

XXXIII. The foregoing Articles XVIII to XXV inclusive, and Article XXX of this Treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said Articles shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the High Contracting Parties shall have given notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

XXXIV. Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th of June, 1846, between Her Britannic Majesty and the United States, that the line of boundary between the territories of Her Britannic Majesty and those of the United States, from the point on the 49th parallel of north latitude up to which it had already been

ascertained, should be continued westward along the said parallel of north latitude " to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean;" and whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of Her Britannic Majesty and of the Government of the United States shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned Article of the said Treaty shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the Treaty of June 15, 1846.

XXXV. The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive; and full effect shall be given to such award without any objection, evasion, or delay whatsoever. Such decision shall be given in writing and dated; it shall be in whatsoever form His Majesty may choose to adopt; it shall be delivered to the representatives or other public agents of Great Britain and of the United States respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

XXXVI. The written or printed case of each of the two parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany within six months from the date of the exchange of the ratifications of this Treaty, and a copy of such case and evidence shall be communicated by each party to the other, through their respective representatives at Berlin.

The High Contracting Parties may include, in the evidence to be considered by the Arbitrator, such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases.

After the written or printed case shall have been communicated by each Party to the other, each Party shall have the power of drawing up and laying before the arbitrator a second and definitive statement, if it think fit to do so, in reply to the case of the other Party so communicated, which definitive statement shall be so laid before the arbitrator, and also be mutually communicated in the same manner as aforesaid, by each Party to the other, within six months from the date of laying the first statement of the case before the arbitrator.

XXXVII. If, in the case submitted to the arbitrator, either Party shall specify or allude to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other through the arbitrator, to produce the originals or certified copies of any papers adduced as evidence giving in each instance such reasonable notice as the arbitrator may require. And if the arbitrator should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be at liberty to require it from either Party, and he shall be at liberty to hear one counsel or agent for each Party, in relation to any matter and at such time, and in such manner, as he may think fit.

XXXVIII. The representatives or other public agents of Great Britain and of the United States at Berlin respectively, shall be considered as the agents of their respective Governments to conduct their cases before the arbitrator, who shall be requested to address all his communications, and give all his notices, to such Representatives or other public agents, who shall represent their respective Governments generally in all matters connected with the arbitration.

XXXIX. It shall be competent to the arbitrator to proceed in the said arbitration, and all matters relating thereto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose, either in the presence or absence of either or both agents, and either orally or by written discussion, or otherwise.

XL. The arbitrator may, if he think fit, appoint a secretary or clerk, for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. This, and all

other expenses of and connected with the said arbitration, shall be provided for as hereinafter stipulated.

XLI. The arbitrator shall be requested to deliver, together with his award, an account of all the costs and expenses which he may have been put to in relation to this matter, which shall forthwith be repaid by the two Governments in equal moieties.

XLII. The arbitrator shall be requested to give his award in writing as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof to each of the said agents.

XLIII. The present Treaty shall be duly ratified by Her Britannic Majesty, and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged either at London or at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate at Washington, the 8th day of May, in the year of Our Lord, 1871.

(L.S.) DE GREY & RIPON.
(L.S.) STAFFORD H. NORTHCOTE.
(L.S.) EDWD. THORNTON.
(L.S.) JOHN A. MACDONALD.
(L.S.) MOUNTAGUE BERNARD.
(L.S.) HAMILTON FISH.
(L.S.) ROBT. C. SCHENCK.
(L.S.) SAMUEL NELSON.
(L.S.) EBENEZER ROCKWOOD HOAR.
(L.S.) GEO. H. WILLIAMS.

* Terminated as from 2nd July, 1885, by notice given by the United States Government, 2nd July, 1883.

## [1] AWARD OF THE EMPEROR OF GERMANY ON THE INTERPRETATION OF THE TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES OF 15TH JUNE, 1846. WATER BOUNDARY BETWEEN VANCOUVER'S ISLAND AND THE MAINLAND (SAN JUAN),—BERLIN, OCTOBER 21, 1872.

(*Translation*)

We, William, by the Grace of God, German Emperor, King of Prussia, etc.

After examination of the Treaty between the Governments of Her Britannic Majesty and that of the United States of America, dated at Washington, May 6th,[2] 1871, by virtue of which the above-named Governments have submitted to our Arbitration the question at issue between them, viz., whether the line of boundary which, according to the Treaty dated at Washington, June 15, 1846, after it had been continued westward along the 49th parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, shall be further drawn southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean, should run, as claimed by the Government of Her Britannic Majesty, through the Rosario Straits, or through the canal of Haro, as claimed by the Government of the United States, in order that we should decide finally and without appeal which of these claims is most in accordance with the true interpretation of the Treaty of June 15, 1846:—

Have, after taking into consideration the statement of the experts and jurists appointed by us to report upon the contents of the respective cases and counter-cases, with their inclosures, given the following decision:—

The claim of the Government of the United States, viz., that the line of boundary between the dominions of Her Britannic Majesty and the United States should be run through the canal of Haro—is most in accordance with the true interpretation of the Treaty concluded between the Government of Her Britannic Majesty and that of the United States of America, dated at Washington, June 15, 1846.

Given under our hand and seal at Berlin, October 21, 1872.

WILLIAM.

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[1] From British & Foreign State Papers, Vol. 62, p. 188.
[2] Sic in orig. The date of the Treaty is May 8th, 1871.

## 1873.

# PROTOCOL BETWEEN GREAT BRITAIN AND THE UNITED STATES, DEFINING THE BOUNDARY LINE THROUGH THE CANAL DE HARO, IN ACCORDANCE WITH THE AWARD OF THE EMPEROR OF GERMANY, OF OCTOBER 21, 1872.

SIGNED AT WASHINGTON, MARCH 10, 1873.

Whereas it was provided by Article I of the Treaty between Great Britain and the United States of America, signed at Washington on the 15th of June, 1846, as follows:—

"Article I. From the point on the 49th parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary, between the territories of Her Britannic Majesty and those of the United States, shall be continued westward along the said 49th parallel of north latitude, to the middle of the channel which separates the Continent from Vancouver's island; and thence southerly through the middle of the said channel, and of Fuca's Straits to the Pacific Ocean; provided, however, that the navigation of the whole of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both Parties.'

And whereas it was provided by Article XXXIV of the Treaty between Great Britain and the United States of America, signed at Washington on the 8th of May, 1871, as follows:—

"Article XXXIV. Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th of June, 1846, between Her Britannic Majesty and the United States, that the line of boundary between the territories of Her Britannic Majesty and those of the United States, from the point on the 49th parallel of north latitude, up to which it had already been ascertained, should be continued westward along the said parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca Straits to the Pacific Ocean, and whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid were unable to

[1] From British & Foreign State Papers, Vol. 63, p. 354.

agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of Her Britannic Majesty, and of the Government of the United States shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned Article of the said Treaty, shall decide thereupon, finally and without appeal which of those claims is most in accordance with the true interpretation of the Treaty of June 15, 1846."

And whereas His Majesty the Emperor of Germany has, by his award dated the 21st of October, 1872, decided that "Mit der richtigen Auslegung der zwischen den Regierungen Ihrer Britischen Majestät und der vereinigten Staaten von Amerika geschlossenen Vertrages de dato Washington den 15ten Juni, 1846, steht der Anspruch der Regierung der vereinigten Staaten am meissten im Einklange, dass die Grenzlinie zwischen den Gebieten Ihrer Britischen Majestät und den vereinigten Staaten durch den Haro Kanal gezogen werde."

The Undersigned, the Right Honourable Sir Edward Thornton, one of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Honourable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, and Rear-Admiral James Charles Prevost, Commissioner of Her Britannic Majesty in respect of the boundary aforesaid, and Hamilton Fish, Secretary of State of the United States, duly authorized by their respective Governments to trace out and mark on charts prepared for that purpose the line of boundary in conformity with the award of His Majesty the Emperor of Germany, and to complete the determination of so much of the boundary line between the possessions of Great Britain and the territory of the United States, as was left uncompleted by the Commissioners heretofore appointed to carry into effect Article I of the Treaty of 15th June, 1846, have met together at Washington, and have traced out and marked the said boundary line on four charts, severally entitled "North America, West Coast, Strait of Juan de Fuca, and the channels between the Continent and Vancouver Island, showing the Boundary line between British

and American Possessions, from the Admiralty Surveys by Captains H. Kellett, R.N., 1847, and G. H. Richards, R.N., 1858-1862;" and having on examination agreed that the lines so traced and marked on the respective charts are identical, they have severally signed the said charts on behalf of their respective Governments, two copies thereof to be retained by the Government of Her Britannic Majesty, and two copies thereof to be retained by the Government of the United States, to serve with the "Definition of the Boundary Line" attached hereto, showing the general bearings of the line of boundary as laid down on the charts, as a perpetual record of agreement between the two Governments in the matter of the line of Boundary between their respective dominions, under Article I of the Treaty concluded at Washington on the 15th of June, 1846.

In witness whereof the Undersigned have signed this Protocol, and have hereunto affixed their seals.

Done in duplicate at Washington, this 10th day of March, in the year 1873.

[L.S.] EDWD. THORNTON.
[L.S.] JAMES C. PREVOST.
[L.S.] HAMILTON FISH.

*Definition of the Boundary Line.*

The chart upon which the boundary line between the British and United States' possessions is laid down is entitled "North America, West Coast, Strait of Juan de Fuca, and the Channels between the Continent and Vancouver Island, showing the boundary line between British and American possessions, from the Admiralty Surveys by Captains H. Kellett, R.N., 1847, and G. H. Richards, R.N., 1858-1862."

The boundary line thus laid down on the chart is a black one shaded red on the side of the British Possessions, and blue on the side of the Possessions of the United States.

The boundary line thus defined commences at the point on the 49th parallel of north latitude on the west side of Point Roberts which is marked by a stone monument, and the line is continued along the same parallel to the middle of the channel which separates the Continent from Vancouver Island, that is to say, to a point in longitude 123° 19′ 15″ west, as shown in the said chart.

It then proceeds in a direction about south 50° east (true) for about 15 geographical miles, when it curves to the southward passing equidistant between the west point of Patos Island and the east point of Saturna Island until the point midway on a line drawn between Turn Point on Stewart Island and Fairfax Point on Moresby Island bears south 68° west (true), distant 10 miles, then on a course south 68° west (true) 10 miles to the said point midway between Turn Point on Stewart Island and Fairfax Point on Moresby Island, thence on a course about south 12° 30′ east (true) for about $8\frac{3}{4}$ miles to a point due east 1 mile from the northernmost kelp reef, which reef, on the said chart, is laid down as in latitude 48° 33′ north and in longitude 123° 15′ west; then its direction continues about south 20° 15′ east (true) $6\frac{1}{8}$ miles to a point midway between Sea Bird Point on Discovery Island and Pile Point on San Juan Island, thence in a straight line south 45° east (true) until it touches the north end of the middle bank in between 13 and 18 fathoms of water; from this point the line takes a general south 28° 30′ west direction (true) for about 10 miles, when it reaches the centre of the fairway of the Strait of Juan de Fuca, which by the chart is in the latitude of 48° 17′ north and longitude 123° 14′ 40″ west.

Thence the line runs in a direction south 73° west (true) for 12 miles to a point on a straight line drawn from the lighthouse on Race Island to Angelos Point, midway between the same.

Thence the line runs through the centre of the Strait of Juan de Fuca, first, in a direction north 80° 30′ west, about $5\frac{3}{4}$ miles to a point equidistant on a straight line between Beechy Head on Vancouver Island and Tongue Point on the shore of Washington Territory; second, in a direction north 76° west about $13\frac{1}{2}$ miles to a point equidistant in a straight line between Sherringham Point on Vancouver Island and Pillar Point, on the shore of Washington territory; third, in a direction north 68° west about $30\frac{3}{4}$ miles to the Pacific Ocean, at a point equidistant between Bonilla Point on Vancouver Island and Tatooch Island lighthouse on the American shore, the line between the points being nearly due north and south (true).

The courses and distances as given in the foregoing description are not assumed to be perfectly accurate, but are as nearly so as is supposed to be necessary to a practical defini

tion of the line laid down on the chart and intended to be the boundary line.

(L.S.) EDWD. THORNTON.
(L.S.) JAMES C. PREVOST.
(L.S.) HAMILTON FISH.

## 1877.

[1] DECLARATION BETWEEN GREAT BRITAIN AND THE UNITED STATES, FOR THE PROTECTION OF TRADE MARKS.—SIGNED AT LONDON, OCTOBER 24, 1877.

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Government of the United States of America, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:—

The subjects or citizens of each of the two Contracting Parties shall have, in the dominions and possessions of the other, the same rights as belong to native subjects or citizens, or, as are now granted, or may hereafter be granted, to the subjects and citizens of the most favoured nation, in everything relating to property in trade marks and trade labels.

It is understood that any person who desires to obtain the aforesaid protection must fulfil the formalities required by the laws of the respective countries.

In witness whereof the Undersigned have signed the present Declaration and have affixed thereto the seal of their arms.

Done at London, the 24th day of October, 1877.

(L.S.) DERBY.
(L.S.) EDWARDS PIERREPONT.

## 1889.

[2] SUPPLEMENTARY CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES, FOR THE EXTRADITION OF CRIMINALS.—SIGNED AT WASHINGTON, JULY 12, 1889.

(*Ratifications exchanged at London, March 11, 1890.*)

Whereas by Article X of the Treaty concluded between Her Britannic Majesty and the United States of America on

[1] From British & Foreign State Papers, Vol. 68, p. 12.
[2] From British & Foreign State Papers, Vol. 81, p. 41.

the 9th day of August, 1842, provision is made for the extradition of persons charged with certain crimes.

And whereas it is now desired by the High Contracting Parties that the provisions of the said Articles should embrace certain crimes not therein specified, and should extend to fugitives convicted of the crimes specified in the said Article and in this Convention;

The said High Contracting Parties have appointed as their Plenipotentiaries to conclude a Convention for this purpose, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pauncefote, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States;

And the President of the United States of America, James G. Blaine, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

Art. I.—The provisions of the said Article X are hereby made applicable to the following additional crimes:

1. Manslaughter when voluntary.

2. Counterfeiting or altering money; uttering or bringing into circulation counterfeit or altered money.

3. Embezzlement; larceny; receiving any money, valuable security, or other property, knowing the same to have been embezzled, stolen, or fraudulently obtained.

4. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or officer of any company, made criminal by the laws of both countries.

5. Perjury, or subornation of perjury.

6. Rape, abduction, child stealing, kidnapping.

7. Burglary, housebreaking or shopbreaking.

8. Piracy by the law of nations.

9. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master; wrongfully sinking or destroying a vessel at sea, or attempting to do so; assaults on board a ship on the high seas, with intent to do grievous bodily harm.

10. Crimes and offences against the laws of both countries for the suppression of slavery and slave-trading.

Extradition is also to take place for participation in any of the crimes mentioned in this Convention or in the aforesaid Article X, provided such participation be punishable by the laws of both countries.

II.—A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded be one of a political character, or if he proves that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

No person surrendered by either of the High Contracting Parties to the other shall be triable or tried, or be punished for any political crime or offence, or for any act connected therewith, committed previously to his extradition.

If any question shall arise as to whether a case comes within the provisions of this Article, the decision of the authorities of the Government in whose jurisdiction the fugitive shall be at the time shall be final.

III.—No person surrendered by or to either of the High Contracting Parties shall be triable or be tried for any crime or offence committed prior to his extradition, other than the offence for which he was surrendered, until he shall have had an opportunity of returning to the country from which he was surrendered.

IV.—All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offence charged, or being material as evidence in making proof of the crime or offence, shall, so far as practicable, and if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to the articles aforesaid shall be duly respected.

V.—If the individual claimed by one of the two High Contracting Parties, in pursuance of the present Convention, should also be claimed by one or several other Powers on account of crimes or offences committed within their respective jurisdictions, his extradition shall be granted to that State whose demand is first received.

The provisions of this Article, and also of Articles II to IV inclusive, of the present Convention, shall apply to surrender

for offences specified in the aforesaid Article X as well as to surrender for offences specified in this Convention.

VI.—The extradition of fugitives under the provisions of this Convention and of the said Article X shall be carried out in Her Majesty's dominions and in the United States, respectively, in conformity with the laws regulating extradition for the time being in force in the surrendering State.

VII.—The provisions of the said Article X and of this Convention shall apply to persons convicted of the crimes therein respectively named and specified, whose sentence therefor shall not have been executed.

In case of a fugitive criminal alleged to have been convicted of the crime for which his surender is asked, a copy of the record of the conviction and of the sentence of the Court before which such conviction took place, duly authenticated, shall be produced, together with the evidence proving that the prisoner is the person to whom such sentence refers.

VIII.—The present Convention shall not apply to any of the crimes herein specified which shall have been committed, or to any conviction which shall have been pronounced, prior to the date at which the Convention shall come into force.

IX.—This Convention shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

It shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties, and shall continue in force until one or the other of the High Contracting Parties shall signify its wish to terminate it, and no longer.

In witness whereof, the undersigned have signed the same, and have affixed thereto their seals.

Done in duplicate, at the City of Washington, this 12th day of July, 1889.

(L.S.) JULIAN PAUNCEFOTE.
(L.S.) JAMES G. BLAINE.

## 1892.

### [1] TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES, FOR SUBMITTING TO ARBITRATION THE QUESTIONS RELATING TO THE SEAL FISHERIES IN BEHRING'S SEA.—SIGNED AT WASHINGTON, FEBRUARY 29, 1892.

(*Ratifications exchanged at London, May 7, 1892.*)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, being desirous to provide for an amicable settlement of the questions which have arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, have resolved to submit to arbitration the questions involved, and to the end of concluding a Convention for that purpose have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pauncefote, G.C.M.G., K.C.B., Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and the President of the United States of America, James G. Blaine, Secretary of State of the United States.

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:—

Art. I.—The questions which have arisen between the Government of Her Britannic Majesty and the Government of the United States concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, shall be submitted to a Tribunal of Arbitration, to be composed of seven Arbitrators, who shall be appointed in the following manner, that is to say: Two shall

[1] From British & Foreign State Papers, Vol. 84, p. 48.

be named by Her Britannic Majesty; two shall be named by the President of the United States; His Excellency the President of the French Republic shall be jointly requested by the High Contracting Parties to name one; His Majesty the King of Italy shall be so requested to name one; and His Majesty the King of Sweden and Norway shall be so requested to name one. The seven Arbitrators to be so named shall be jurists of distinguished reputation in their respective countries; and the selecting Powers shall be requested to choose, if possible, jurists who are acquainted with the English language.

In the case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or in the event of any or either of the said Arbitrators omitting or declining or ceasing to act as such, Her Britannic Majesty or the President of the United States, or His Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, as the case may be, shall name, or shall be requested to name forthwith, another person to act as Arbitrator in the place and stead of the Arbitrator originally named by such head of a State.

And in the event of the refusal or omission for two months after receipt of the joint request from the High Contracting Parties of His Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, to name an Arbitrator either to fill the original appointment or to fill a vacancy as above provided, then in such case the appointment shall be made or the vacancy shall be filled in such manner as the High Contracting Parties shall agree.

II. The Arbitrators shall meet at Paris within 20 days after the delivery of the counter-cases mentioned in Article IV, and shall proceed impartially and carefully to examine and decide the questions that have been or shall be laid before them as herein provided on the part of the Governments of Her Britannic Majesty and the United States respectively. All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent to represent it generally in all matters connected with the arbitration.

III.—The printed Case of each of the two Parties, accompanied by the documents, the official correspondence, and other

evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding four months from the date of the exchange of the ratifications of this Treaty.

IV.—Within three months after the delivery on both sides of the printed Case, either party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a counter case and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other party.

If, however, in consequence of the distance of the place from which the evidence to be presented is to be procured, either party shall, within 30 days after the receipt by its Agent of the case of the other party, give notice to the other party that it requires additional time for the delivery of such counter-case, documents, correspondence, and evidence, such additional time so indicated, but not exceeding 60 days beyond the three months in this Article provided, shall be allowed.

If in the case submitted to the Arbitrators either party shall have specified or alluded to any report or document in his own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within 30 days after delivery of the case; and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding 40 days after receipt of notice.

V.—It shall be the duty of the Agent of each party, within one month after the expiration of the time limited for the delivery of the counter-case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other party a printed argument showing the points and referring to the evidence upon which his Government relies, and either party may also support the same before the Arbitrators by oral argument of Counsel; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument or oral argument by Counsel.

upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

VI.—In deciding the matters submitted to the Arbitrators, it is agreed that the following five points shall be submitted to them, in order that their award shall embrace a distinct decision upon each of said five points, to wit:—

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean" as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring's Sea, were held and exclusively exercised by Russia after said Treaty?

4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Behring's Sea, east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. Has the United States any right, and if so, what right, of protection or property in the fur-seals frequenting the islands of the United States in Behring's Sea when such seals are found outside the ordinary 3-mile limit?

VII.—If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such regulations should extend, and to aid them in that determination, the Report of a Joint Commission, to be appointed by the respective Governments, shall be laid before them, with such other evidence as either Government may submit.

The High Contracting Parties furthermore agree to cooperate in securing the adhesion of other Powers to such Regulations.

VIII.—The High Contracting Parties having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it; and being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims, and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

IX.—The High Contracting Parties having agreed to appoint two Commissioners on the part of each Government to make the joint investigation and Report contemplated in the preceding Article VII, and to include the terms of the said Agreement in the present Convention, to the end that the joint and several Reports and recommendations of said Commissioners may be in due form submitted to the Arbitrators, should the contingency therefor arise, the said Agreement is accordingly herein included as follows:

Each Government shall appoint two Commissioners to investigate, conjointly with the Commissioners of the other Government, all the facts having relation to seal-life in Behring's Sea, and the measures necessary for its proper protection and preservation.

The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

These Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise.

X.—Each Government shall pay the expenses of its members of the Joint Commission in the investigation referred to in the preceding Article.

XI.—The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government and the other copy shall be delivered to the Agent of the United States for his Government.

XII.—Each Government shall pay its own Agent, and provide for the proper remuneration of the Counsel employed by it and of the Arbitrators appointed by it, and, for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

XIII.—The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

XIV.—The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all the questions referred to the Arbitrators.

XV.—The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate, at Washington, the 29th day of February, 1892.

(L.S.) JULIAN PAUNCEFOTE.
(L.S.) JAMES G. BLAINE.

## [1]AWARD OF THE TRIBUNAL OF ARBITRATION, CONSTITUTED UNDER ARTICLE I OF THE TREATY CONCLUDED AT WASHINGTON ON THE 29TH FEBRUARY, 1892, BETWEEN GREAT BRITAIN AND THE UNITED STATES (SEAL FISHERY IN BEHRING'S SEA).

PARIS, August 15, 1893.

(English version.)

Whereas by a treaty between the United States of America and Great Britain, signed at Washington the 29th February,

[1] From British & Foreign State Papers, Vol. 85, p. 1158.

1892, the ratifications of which by the Governments of the two countries were exchanged at London on the 7th May, 1892, it was, amongst other things, agreed and concluded that the questions which had arisen between the Government of the United States of America and the Government of Her Britannic Majesty, concerning the jurisdictional rights of the United States in the waters of the Behring's Sea and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seals in or habitually resorting to the said waters, should be submitted to a Tribunal of Arbitration to be composed of seven Arbitrators, who should be appointed in the following manner, that is to say: two should be named by the President of the United States; two should be named by Her Britannic Majesty; His Excellency the President of the French Republic should be jointly requested by the High Contracting Parties to name one; His Majesty the King of Italy should be so requested to name one; His Majesty the King of Sweden and Norway should be so requested to name one; the seven Arbitrators to be so named should be jurists of distinguished reputation in their respective countries, and the selecting Powers should be requested to choose, if possible, jurists who are acquainted with the English language;

And whereas it was further agreed by Article II of the said Treaty that the Arbitrators should meet at Paris within 20 days after the delivery of the counter-cases mentioned in Article IV, and should proceed impartially and carefully to examine and decide the questions which had been or should be laid before them as in the said Treaty provided on the part of the Governments of the United States and of Her Britannic Majesty respectively, and that all questions considered by the Tribunal including the final decision, should be determined by a majority of all the Arbitrators;

And whereas by Article VI of the said Treaty, it was further provided as follows:

(*See page 96.*)

And whereas by Article VII of the said Treaty, it was further agreed as follows:

(*See page 96.*)

And whereas by Article VIII of the said Treaty, after reciting that the High Contracting Parties had found themselves unable to agree upon a reference which should include the

question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens in connection with the claims presented and urged by it, and that "they were solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions," the High Contracting Parties agreed that "either of them might submit to the Arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation;"

And whereas the President of the United States of America named the Honourable John M. Harlan, Justice of the Supreme Court of the United States, and the Honourable John T. Morgan, Senator of the United States, to be two of the said Arbitrators; and Her Britannic Majesty named the Right Honourable Lord Hannen and the Honourable Sir John Thompson, Minister of Justice and Attorney General for Canada, to be two of the said Arbitrators; and His Excellency the President of the French Republic named the Baron de Courcel, Senator, Ambassador of France, to be one of the said Arbitrators; and His Majesty the King of Italy named the Marquis Emilio Visconti Venosta, former Minister for Foreign Affairs and Senator of the Kingdom of Italy, to be one of the said Arbitrators; and His Majesty the King of Sweden and Norway named Mr. Gregers Gram, Minister of State, to be one of the said Arbitrators;

And whereas, we, the said Arbitrators, so named and appointed, having taken upon ourselves the burden of the said Arbitration, and having duly met at Paris, proceeded impartially and carefully to examine and decide all the questions submitted to us the said Arbitrators, under the said Treaty, or laid before us as provided in the said Treaty on the part of the Governments of Her Britannic Majesty and the United States, respectively;

Now, we, the said Arbitrators, having impartially and carefully examined the said questions, do in like manner by this our Award decide and determine the said questions in manner following, that is to say, we decide and determine as to the five points mentioned in Article VI as to which our Award is to embrace a distinct decision upon each of them.

As to the first of the said five points we, the said Baron de Courcel, Mr. Justice Harlan, Lord Hannen, Sir John Thomp-

son, Marquis Visconti Venosta, and Mr. Gregers Gram, being a majority of the said Arbitrators, do decide and determine as follows:

By the Ukase of 1821, Russia claimed jurisdiction in the sea now known as the Behring's Sea, to the extent of 100 Italian miles from the coasts and islands belonging to her, but, in the course of the negotiations which led to the conclusion of the Treaties of 1824 with the United States, and of 1825 with Great Britain, Russia admitted that her jurisdiction in the said sea should be restricted to the reach of cannon shot from shore, and it appears from that time up to the time of the cession of Alaska to the United States, Russia never asserted in fact or exercised any exclusive jurisdiction in Behring's Sea, or any exclusive rights in the seal fisheries therein beyond the ordinary limit of territorial waters.

As to the second of the said five points, we, the said Baron de Courcel, Mr. Justice Harlan, Lord Hannen, Sir John Thompson, Marquis Visconti Venosta, and Mr. Gregers Gram, being a majority of the said Arbitrators, do decide and determine that Great Britain did not recognize or concede any claim, upon the part of Russia to exclusive jurisdiction as to the seal fisheries in Behring Sea, outside of ordinary territorial waters.

As to the third of the said five points, as to so much thereof as requires us to decide whether the body of water now known as the Behring Sea was included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia, we, the said Arbitrators, do unanimously decide and determine, that the body of water now known as the Behring Sea was included in the phrase "Pacific Ocean" as used in the said Treaty.

And as to so much of the said third point as requires us to decide what rights, if any, in the Behring Sea were held and exclusively exercised by Russia after the said Treaty of 1825, we, the said Baron de Courcel, Mr. Justice Harlan, Lord Hannen, Sir John Thompson, Marquis Visconti Venosta, and Mr. Gregers Gram, being a majority of the said Arbitrators, do decide and determine that no exclusive rights of jurisdiction in Behring Sea and no exclusive rights as to the seal fisheries therein, were held or exercised by Russia outside of ordinary territorial waters after the Treaty of 1825.

As to the fourth of the said five points, we, the said Arbitrators, do unanimously decide and determine that all the rights

of Russia as to jurisdiction and as to the seal fisheries in Behring Sea, east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, did pass unimpaired to the United States under the said Treaty.

As to the fifth of the said five points, we, the said Baron de Courcel, Lord Hannen, Sir John Thompson, Marquis Visconti Venosta, and Mr. Gregers Gram, being a majority of the said Arbitrators, do decide and determine that the United States has not any right of protection or property in the fur-seals frequenting the islands of the United States in Behring Sea, when such seals are found outside the ordinary 3-mile limit.

And whereas the aforesaid determination of the foregoing questions as to the exclusive jurisdiction of the United States mentioned in Article VI leaves the subject in such a position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in or habitually resorting to the Behring Sea, the Tribunal having decided by a majority as to each Article of the following Regulations, we, the said Baron de Courcel, Lord Hannen, Marquis Visconti Venosta, and Mr. Gregers Gram, assenting to the whole of the nine Articles of the following Regulations, and being a majority of the said Arbitrators, do decide and determine in the mode provided by the Treaty, that the following concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and that they should extend over the waters hereinafter mentioned, that is to say:

Article 1. The Governments of the United States and of Great Britain shall forbid their citizens and subjects respectively to kill, capture, or pursue at any time and in any manner whatever, the animals commonly called fur-seals, within a zone of 60 miles around the Pribiloff Islands, inclusive of the territorial waters.

The miles mentioned in the preceding paragraph are geographical miles, of 60 to a degree of latitude.

Article 2. The two Governments shall forbid their citizens and subjects respectively to kill, capture, or pursue, in any manner whatever, during the season extending, each year, from the 1st May to the 31st July, both inclusive, the fur-seals on the high sea, in the part of the Pacific Ocean, inclusive of the Behring Sea, which is situated to the north of the 35th degree of north latitude, and eastward of the 180th degree of longi-

tude from Greenwich until it strikes the water boundary described in Article I of the Treaty of 1867 between the United States and Russia, and following that line up to Behring Straits.

Article 3. During the period of time and in the waters in which the fur-seal fishing is allowed, only sailing vessels shall be permitted to carry on or take part in, fur seal fishing operations. They will, however, be at liberty to avail themselves of the use of such canoes or undecked boats, propelled by paddles, oars or sails, as are in common use as fishing boats.

Article 4. Each sailing vessel authorized to fish for fur-seals must be provided with a special license issued for that purpose by its Government, and shall be required to carry a distinguishing flag to be prescribed by its Government.

Article 5. The masters of the vessels engaged in fur-seal fishing shall enter accurately in their official log book the date and place of each fur-seal fishing operation, and also the number and sex of the seals captured upon each day. These entries shall be communicated by each of the two Governments to the other at the end of each fishing season.

Article 6. The use of nets, fire-arms, and explosives shall be forbidden in the fur-seal fishing. This restriction shall not apply to shot guns when such fishing takes place outside of Behring Sea during the season when it may be lawfully carried on.

Article 7. The two Governments shall take measures to control the fitness of the men authorized to engage in fur-seal fishing. These men shall have been proved fit to handle with sufficient skill the weapons by means of which this fishing may be carried on.

Article 8. The Regulations contained in the preceding Articles shall not apply to Indians dwelling on the coasts, of the territory of the United States or of Great Britain, and carrying on fur-seal fishing in canoes or undecked boats not transported by or used in connection with other vessels and propelled wholly by paddles, oars, or sails, and manned by not more than five persons each in the way hitherto practised by the Indians, provided such Indians are not in the employment of other persons, and provided that when so hunting in canoes or undecked boats, they shall not hunt fur-seals outside of territorial waters under contract for the delivery of the skins to any person.

This exemption shall not be construed to affect the municipal law of either country, nor shall it extend to the waters of Behring Sea, or the waters of the Aleutian Passes.

Nothing herein contained is intended to interfere with the employment of Indians as hunters or otherwise in connection with fur-sealing vessels as heretofore.

Article 9. The concurrent Regulations hereby determined with a view to the protection and preservation of the fur-seals shall remain in force until they have been, in whole or in part, abolished or modified by common agreement between the Governments of the United States and of Great Britain.

The said concurrent Regulations shall be submitted every five years to a new examination, so as to enable both interested Governments to consider whether, in the light of past experience, there is occasion for any modification thereof.

And whereas the Government of Her Britannic Majesty did submit to the Tribunal of Arbitration by Article VIII of the said Treaty certain questions of fact involved in the claims referred to in the said Article VIII, and did also submit to us, the said Tribunal, a statement of the said facts, as follows, that is to say:

*Findings of fact proposed by the Agent of Great Britain and agreed to as proved by the Agent for the United States and submitted to the Tribunal of Arbitration for its consideration.*

"1. That the several searches and seizures, whether of ships or goods, and the several arrests of masters and crews, respectively, mentioned in the schedule to the British Case, pp. 1 to 60 inclusive, were made by the authority of the United States Government. The questions as to the value of the said vessels or their contents, or either of them, and the question as to whether the vessels mentioned in the schedule to the British Case, or any of them, were wholly or in part the actual property of citizens of the United States, have been withdrawn from, and have not been considered by the Tribunal, it being understood that it is open to the United States to raise these questions, or any of them, if they think fit, in any future negotiations as to the liability of the United States' Government

to pay the amounts mentioned in the schedule to the British Case.

"2. That the seizures aforesaid, with the exception of the *Pathfinder* seized at Neah Bay, were made in Behring Sea at the distances from shore mentioned in schedule annexed hereto marked (C).

"3. That the said several searches and seizures of vessels were made by public armed vessels of the United States, the commanders of which had, at the several times when they were made, from the Executive Department of the Government of the United States, instructions, a copy of one of which is annexed hereto marked (A), and that the others were, in all substantial respects, the same. That in all the instances in which proceedings were had in the District Courts of the United States resulting in condemnation, such proceedings were begun by the filing of libels, a copy of one of which is annexed hereto, marked (B), and that the libels in the other proceedings were in all substantial respects the same; that the alleged acts or offences for which said several searches and seizures were made were in each case done or committed in Behring Sea at the distances from shore aforesaid; and that in each case in which sentence of condemnation was passed, except in those cases when the vessels were released after condemnation, the seizure was adopted by the Government of the United States; and in those cases in which the vessels were released the seizure was made by the authority of the United States; that the said fines and imprisonments were for alleged breaches of the municipal laws of the United States, which alleged breaches were wholly committed in Behring Sea at the distances from the shore aforesaid.

"4. That the several orders mentioned in the schedule annexed hereto, and marked (C), warning vessels to leave or not to enter Behring Sea were made by public armed vessels of the United States, the commanders of which had, at the several times when they were given, like instructions as mentioned in finding 3, and that the vessels so warned were engaged in sealing or prosecuting voyages for that purpose, and that such action was adopted by the Government of the United States.

"5. That the District Courts of the United States in which any proceedings were had or taken for the purpose of condemning any vessel seized as mentioned in the schedule to the Case of Great Britain, pp. 1 to 60, inclusive, had all the jurisdiction

and powers of Courts of Admiralty, including the prize jurisdiction, but that in each case the sentence pronounced by the court was based upon the grounds set forth in the libel."

"ANNEX (A).

"TREASURY DEPARTMENT,
"OFFICE OF THE SECRETARY,
"WASHINGTON, April 21, 1886.

"Sir,

"Refering to Department letter of this date, directing you to proceed with the revenue steamer *Bear* under your command, to the Seal Islands, etc., you are hereby clothed with full power to enforce the law contained in the provisions of Section 1956 of the United States' Revised Statutes, and directed to seize all vessels and arrest and deliver to the proper authorities any or all persons whom you may detect violating the law referred to, after due notice shall have been given.

"You will also seize any liquors or firearms attempted to be introduced into the country without proper permit, under the provisions of Section 1955 of the Revised Statutes, and the Proclamation of the President dated the 4th February, 1870.

"Respectfully yours,

"C. S. FAIRCHILD,
"*Acting Secretary.*

"Captain M. A. HEALY,
"Commanding Revenue Steamer *Bear*,
"San Francisco, California."

"ANNEX (B).

"*In the District Court of the United States for the District of Alaska.*

"August Special Term, 1886.

"To the Honourable LAFAYETTE DAWSON,
"Judge of said District Court:

"The libel of information of M. D. Ball, Attorney for the United States for the District of Alaska, who prosecutes on

behalf of said United States, and being present here in Court in his proper person, in the name and on behalf of the said United States, against the schooner *Thornton,* her tackle, apparel, boats, cargo, and furniture, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

"That Charles A. Abbey, an officer in the Revenue Marine Service of the United States, and on special duty in the waters of the District of Alaska, heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska territory, and in the waters thereof, and within the civil and judicial District of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the *Thornton,* her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons to the said attorney unknown, as forfeited to the United States, for the following causes:

"That the said vessel or schooner was found engaged in killing fur-seal within the limits of Alaska territory, and in the waters thereof, in violation of Section 1956 of the Revised Statutes of the United States.

"And the said attorney saith that all and singular the premises are and were true, and within the Admiralty and Maritime jurisdiction of this Court, and that by reason thereof, and by force of the Statutes of the United States in such cases made and provided, the aforementioned and described schooner or vessel, being a vessel of over 20 tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

"Wherefore the said attorney prays the usual process and monition of this honourable court issue in this behalf, and that all persons interested in the beforementioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture, may for the cause aforesaid, and others appearing, to be condemned by the definite sentence and decree of this honourable court, as forfeited to the use of the said United States,

according to the form of the Statute of the said United States in such cases made and provided.

"M. D. BALL,
"*United States District Attorney*
"*for the District of Alaska.*"

## ANNEX (C).

"The following table shows the names of the British sealing vessels seized or warned by United States' revenue cruisers, 1886-1890, and the approximate distances from land when seized. The distances assigned in the cases of the *Carolena, Thornton* and *Onward,* are on the authority of the United States' Naval Commander Abbey (*see* 50th Congress, 2nd Session, Senate Executive Documents, No. 106, pp. 20, 30, 40). The distances assigned in the cases of the *Anna Beck, W. P. Sayward, Dolphin* and *Grace,* are on the authority of Captain Shepard, United States' Royal Marine (Blue Book, United States, No. 2, 1890, pp. 80-82. *See* appendix, vol. iii)."

| Name of Vessel. | Date of Seizure. | Approximate distance from Land when Seized. | United States vessel making Seizures. |
|---|---|---|---|
| Carolena | Aug. 1, 1886. | 75 miles | Corwin. |
| Thornton | " 1, 1886. | 70 " | " |
| Onward | " 2, 1886. | 115 " | " |
| Favorite | " 2, 1886. | Warned by "Corwin" in about same position as "Onward." | |
| Anna Beck | July 2, 1887. | 66 miles | Rush. |
| W. P. Sayward | " 9, 1887. | 59 " | " |
| Dolphin | " 12, 1887. | 40 " | " |
| Grace | " 17, 1887. | 96 " | " |
| Alfred Adams | Aug. 10, 1887. | 62 " | " |
| Ada | " 25, 1887. | 15 " | Bear. |
| Triumph | " 4, 1887. | Warned by "Rush" not to enter Behring Sea. | |
| Juanita | July 31, 1889. | 66 miles | Rush. |
| Pathfinder | " 29, 1889. | 50 " | " |
| Triumph | " 11, 1889. | Ordered out of Behring Sea by "Rush" (? as to position when warned.) | |
| Black Diamond | " 11, 1889. | 35 miles | " |
| Lily | Aug. 6, 1889. | 66 " | " |
| Ariel | July 30, 1889. | Ordered out of Behring Sea by "Rush." | |
| Kate | Aug. 13, 1889. | " " " | |
| Minnie | July 15, 1889. | 65 miles | " |
| Pathfinder | Mar. 27, 1890. | Seized in Neah Bay.* | Corwin. |

* Neah Bay is in the State of Washington, and the "Pathfinder" was seized there on charges made against her in Behring Sea in the previous year. She was released two days later.

And whereas the Government of Her Britannic Majesty did ask the said Arbitrators to find the said facts as set forth in the said statement, and whereas the Agent and Counsel for the United States' Government thereupon in our presence informed us that the said statement of facts was sustained by the evidence, and that they had agreed with the Agent and Counsel for Her Britannic Majesty that we, the Arbitrators, if we should think fit so to do, might find the said statement of facts to be true.

Now, we, the said Arbitrators, do unanimously find the facts as set forth in the said statement to be true.

And whereas each and every question which has been considered by the Tribunal has been determined by a majority of all the Arbitrators.

Now, we, Baron de Courcel, Lord Hannen, Mr. Justice Harlan, Sir John Thompson, Senator Morgan, the Marquis Visconti Venosta, and Mr. Gregers Gram, the respective minorities not withdrawing their votes, do declare this to be the final decision and Award in writing of this Tribunal in accordance with the Treaty.

Made in duplicate at Paris, and signed by us the 15th day of August, in the year 1893.

And we do certify this English version thereof to be true and accurate.

ALPH. DE COURCEL.
JOHN M. HARLAN.
JOHN T. MORGAN.
HANNEN.
JNO. S. D. THOMPSON.
VISCONTI VENOSTA.
G. GRAM.

*(English Version.)*

## DECLARATIONS MADE BY THE TRIBUNAL OF ARBITRATION AND REFERRED TO THE GOVERNMENTS OF THE UNITED STATES AND GREAT BRITAIN FOR THEIR CONSIDERATION.

1. The Arbitrators declare that the concurrent Regulations as determined upon by the Tribunal of Arbitration, by virtue of Article VII of the Treaty of the 29th February, 1892, being applicable to the high sea only, should, in their opinion, be

supplemented by other Regulations applicable within the limits of the sovereignty of each of the two Powers interested, and to be settled by their common agreement.

2. In view of the critical condition to which it appears certain that the race of fur-seals is now reduced in consequence of circumstances not fully known, the Arbitrators think fit to recommend both Governments to come to an understanding in order to prohibit any killing of fur-seals, either on land or at sea, for a period of two or three years, or at least one year, subject to such exceptions as the two Governments might think proper to admit of.

Such a measure might be recurred to at occasional intervals if found beneficial.

3. The Arbitrators declare, moreover, that, in their opinion, the carrying out of the Regulations determined upon by the Tribunal of Arbitration should be assured by a system of stipulations and measures to be enacted by the two Powers; and that the Tribunal must, in consequence, leave it to the two Powers to decide upon the means for giving effect to the Regulations determined upon by it.

We do certify this English version to be true and accurate and have signed the same at Paris, this 15th day of August, 1893..

ALPH. D. COURCEL.
JOHN M. HARLAN.
JOHN T. MORGAN.

I approve Declarations 1 and 3.

HANNEN.

I approve Declarations 1 and 3.

JNO. S. D. THOMPSON.
VISCONTI VENOSTA.
G. GRAM.

## 1892.

### [1] TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES, FOR THE SURRENDER OF MERCHANT SEAMEN DESERTERS.—SIGNED AT WASHINGTON, JUNE 3RD, 1892.

(*Ratifications exchanged at Washington, August 1, 1893.*)

Whereas the Governments of Great Britain and the United States of America are desirous to make provision for the apprehension, recovery, and restoration of persons who may desert from merchant vessels of their respective countries while in the ports of the other country, and to conclude a Treaty for the above purpose, the High Contracting Parties have accordingly appointed as their Plenipotentiaries to conclude the said Treaty, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pauncefote, G.C.M.G., K.C.B., Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and

The President of the United States of America, James G. Blaine, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, found in due and good form, have agreed upon the following Articles:

Art. I.—The Consuls-General, Consuls, Vice-Consuls, and Consular Agents of either of the High Contracting Parties, residing in the Dominions, Possessions or Colonies of the other, shall have power to require from the proper authorities the assistance provided by law for the apprehension, recovery and restoration of seamen who may desert from any ship belonging to a subject or citizen of their respective countries while in the ports of the other country. If, however, any such deserter shall have committed any crime or offence in the country where he is found, his surrender or restoration may be delayed until the proper Tribunal before which the case shall be pending, or may be cognizable, shall have pronounced its sentence, and the sentence shall have been carried into effect.

It is understood that the preceding stipulations shall not apply to the subjects or citizens of the country where the desertion shall take place.

[1] From British & Foreign State Papers, Vol. 84, p. 67.

II.—The present Treaty shall be ratified, and the ratifications shall be exchanged at London or at Washington without delay.

III.—The present Treaty shall come into operation at the expiration of 30 days from the date of the exchange of ratifications. It shall remain in force for five years after that date, and thereafter until terminated by a 12 months' notice to be given by either High Contracting Party to the other.

In faith whereof we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate, at Washington, this 3rd day of June, 1892.

(L.S.) JULIAN PAUNCEFOTE.
(L.S.) JAMES G. BLAINE.

## 1892.

## [1] CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA, RESPECTING THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND THE UNITED STATES (ALASKA AND PASSAMAQUODDY BAY).—SIGNED AT WASHINGTON, JULY 22, 1892.

*(Ratifications exchanged at Washington, August 23, 1892.)*

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, being equally desirous to provide for the removal of all possible cause of difference between their respective Governments hereafter in regard to the delimitation of the existing boundary between Her Majesty's possessions in North America and the United States in respect to such portions of said boundary as may not in fact have been permanently marked in virtue of Treaties heretofore concluded, have resolved to conclude a Convention in furtherance of these ends, and for that purpose, have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Honourable Michael H. Herbert, Chargé d'Affaires *ad interim* of Great Britain; and

[1] From British & Foreign State Papers, Vol. 84, p. 70.

The President of the United States, John W. Foster, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:—

ARTICLE 1.

The High Contracting Parties agree that a coincident or joint survey (as may be found in practice most convenient) shall be made of the territory adjacent to that part of the boundary line of the Dominion of Canada and the United States of America dividing the province of British Columbia and the northwest territory of Canada from the Territory of Alaska, from the latitude of 54° 40′ north to the point where the said boundary line encounters the 141st degree of longitude westward from the meridan of Greenwich, by Commissions to be appointed severally by the High Contracting Parties with a view to the ascertainment of the facts and data necessary to the Permanent delimitation of said boundary line in accordance with the spirit and intent of the existing Treaties in regard to it between Great Britain and Russia, and between the United States and Russia.

Application will be made without delay to the respective legislative Bodies for the appropriations necessary for the prosecution of the survey, and the Commissions to be appointed by the two Governments shall meet at Ottawa within two months after said appropriation shall have been made, and shall proceed as soon as practicable thereafter to the active discharge of their duties.

The respective Commissions shall complete the survey and submit their final Reports thereof within two years from the date of their first meeting.

The Commission shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally to each Government on any points upon which they may be unable to agree.

Each Government shall pay the expenses of the Commission appointed by it.

Each Government engages to facilitate in every possible way any operations which, in pursuance of the plan to be agreed upon by the Commissions, may be conducted within its territory by the Commission of the other.

The High Contracting Parties agree that, as soon as practicable after the report or reports of the Commissions shall have been received, they will proceed to consider and establish the boundary line in question.

ARTICLE II.

The High Contracting Parties agree that the Governments of Her Britannic Majesty in behalf of the Dominion of Canada and of the United States shall, with as little delay as possible, appoint two Commissioners, one to be named by each party to determine upon a method of more accurately marking the boundary line between the two countries in the waters of Passamaquoddy Bay in front of and adjacent to Eastport, in the State of Maine, and to place buoys or fix such other boundary marks as they may determine to be necessary

Each Government shall pay the expenses of its own Commissioner, and cost of marking the boundary in such manner as shall be determined upon shall be defrayed by the High Contracting Parties in equal moieties.

ARTICLE III.

The present Convention shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at Washington within twelve months from the date hereof, or earlier if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done in duplicate at Washington, the 22nd day of July, one thousand eight hundred and ninety-two.

(Signed) (L.S.) MICHAEL H. HERBERT.
(Signed) (L.S.) JOHN W. FOSTER.

## 1894.

[1] CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES SUPPLEMENTARY TO THE CONVENTION OF JULY 22, 1892, RESPECTING BOUNDARIES.—ALASKA AND PASSAMAQUODDY BAY.

SIGNED AT WASHINGTON, FEBRUARY 3, 1894.

(*Ratifications exchanged at Washington, March 28, 1894.*)

The Governments of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and of the United States of America, being credibly advised that the labours of the Commission organized pursuant to the Convention which was concluded between the High Contracting Parties at Washington, July 22, 1892, providing for the delimitation of the existing boundary between Her Majesty's possessions in North America and the United States, in respect to such portions of said boundary line as may not, in fact, have been permanently marked in virtue of Treaties heretofore concluded, cannot be accomplished within the period of two years from the first meeting of the Commission as fixed by that Convention, have deemed it expedient to conclude a supplementary Convention extending the term for a further period, and for this purpose have named as their respective Plenipotentiaries:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Excellency Sir Julian Pauncefote, G.C.B., G.C.M.G., Ambassador Extraordinary and Plenipotentiary of Great Britain; and

The President of the United States, Walter Q. Gresham, Secretary of State of the United States;

Who, after having communicated to each other their respective Full Powers, which were found to be in due and proper form, have agreed upon the following Articles:—

ARTICLE I.

The third paragraph of Article I of the Convention of July 22, 1892, states that the respective Commissions shall complete the survey and submit their final reports thereof within two

[1] From Treaty Series No. 10, 1894.

years from the date of their first meeting. The Joint Commissioners held their first meeting November 28, 1892; hence the time allowed by that Convention expires November 28, 1894. Believing it impossible to complete the required work within the specified period, the two Governments hereby mutually agree to extend the time to December 31, 1895.

ARTICLE II.

The present Convention shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at Washington at the earliest practicable date.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done in duplicate at Washington, the third day of February, 1894.

(L.S.) JULIAN PAUNCEFOTE,
(L.S.) W. Q. GRESHAM.

## 1896.

[1] CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES, FOR THE SUBMISSION TO ARBITRATION OF BRITISH CLAIMS IN CONNECTION WITH THE BEHRING SEA SEAL FISHERY.—SIGNED AT WASHINGTON, FEBRUARY 8, 1896.

*(Ratifications exchanged at London, June 3, 1896.)*

Whereas, by a Treaty between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, signed at Washington on the 29th February, 1892, the questions which had arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Behring Sea, and concerning also the preservation of the fur-seal in, or habitually resorting to, the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in, or habitu-

[2] From Treaty Series No 10, 1896.

ally resorting to, the said waters, were submitted to a Tribunal of Arbitration as therein constituted:

And whereas the High Contracting Parties having found themselves unable to agree upon a reference which should include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, did, by Article VIII of the said Treaty, agree that either party might submit to the arbitrators any questions of the fact involved in said claims, and ask a finding thereon, the question of the liability of either Government on the facts found to be the subject of further negotiation:

And whereas the Agent of Great Britain did, in accordance with the provisions of said Article VIII, submit to the Tribunal of Arbitration certain findings of fact which were agreed to as proved by the Agent of the United States, and the arbitrators did unanimously find the facts so set forth to be true, as appears by the Award of the Tribunal rendered on the 15th day of August, 1893:

And whereas, in view of the said findings of fact and of the decision of the Tribunal of Arbitration concerning the jurisdictional rights of the United States in Behring Sea, and the right of protection or property of the United States in the fur-seals frequenting the islands of the United States in Behring Sea, the Government of the United States is desirous that, in so far as its liability is not already fixed and determined by the findings of fact and the decision of said Tribunal of Arbitration, the question of such liability should be definitely and fully settled and determined, and compensation made for any injuries for which, in the contemplation of the Treaty aforesaid, and the award and findings of the Tribunal of Arbitration, compensation may be due to Great Britain from the United States:

And whereas it is claimed by Great Britain, though not admitted by the United States, that prior to the said award certain other claims against the United States accrued in favour of Great Britain on account of seizures of or interference with the following named British sealing-vessels, to wit: the "Wanderer," the "Winifred," the "Henrietta," and the "Oscar and Hattie," and it is for the mutual interest and convenience of both the High Contracting Parties that the liability of the United States, if any, and the amount of compensation to be

paid, if any, in respect of such claims, and each of them should also be determined under the provisions of this Convention—all claims by Great Britain under Article V of the *modus vivendi* of the 18th April, 1892, for the abstention from fishing of British sealers during the pendency of said arbitration having been definitely waived before the Tribunal of Arbitration.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, to the end of concluding a Convention for that purpose, have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Sir Julian Pauncefote, G.C.B., G.C.M.G., Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States: and

The President of the United States, the Honourable Richard Olney, Secretary of State;

Who, after having communicated to each other their respective full powers, which were found in due and proper form, have agreed to and concluded the following Articles:—

Article I. The High Contracting Parties agree that all claims on account of injuries sustained by persons in whose behalf Great Britain is entitled to claim compensation from the United States, and arising by virtue of the Treaty aforesaid, the award and findings of the said Tribunal of Arbitration, as also the additional claims specified in the fifth paragraph of the preamble hereto, shall be referred to two Commissioners, one of whom shall be appointed by Her Britannic Majesty, and the other by the President of the United States, and each of whom shall be learned in the law.

Appended to this Convention is a list of the Claims intended to be referred.

ArticleII. The two Commissioners shall meet at Victoria, in the Province of British Columbia, Canada, as soon as practicable after the exchange of the ratifications of this Convention, and, after taking an oath that they will fairly and impartially investigate the claims referred to them, and render a just decision thereon, they shall proceed jointly to the discharge of their duties.

The Commission shall also sit at San Francisco, California, as well as at Victoria, provided either Commissioner shall so request, if he shall be of opinion that the interests of justice shall so require, for reasons to be recorded on the minutes.

Article III. The said Commissioners shall determine the liamibity of the United States, if any, in respect of each claim, and assess the amount of compensation, if any, to be paid on account thereof—so far ts they shall be able to agree thereon—and their decision shall be accepted by the two Governments as final.

They shall be authorized to hear and examine, on oath or affirmation, which each of said Commissioners is hereby empowered to administer or receive, every question of fact not found by the Tribunal of Arbritration, and to receive all suitable authentic testimony concerning the same: and the Government of the United States shall have the right to raise the question of its liability before the Commissioners in any case where it shall be proved that the vessel was wholly or in part the actual property of a citizen of the United States.

The said Commission, when sitting at San Francisco or Victoria, shall have and exercise all such powers for the procurement or enforcement of testimony as may hereafter be provided by appropriate legislation.

Article IV. The Commissioners may appoint a secretary and a clerk or clerks to assist them in the transaction of the business of the Commission.

Article V. In the cases, if any, in which the Commissioners shall fail to agree, they shall transmit to each Government a Joint Report stating in detail the points on which they differ, and the grounds on which their opinions have been formed; and any such difference shall be referred for final adjustment to an Umpire to be appointed by the two Governments jointly, or, in case of disagreement, to be nominated by the President of the Swiss Confederation at the request of the two Governments.

Article VI. In the case of the death, or incapacity to serve, from sickness or any other cause, of either of the two Commissioners, or of the Umpire, if any, his place shall be filled in the manner herein provided for the original appointment.

Article VII. Each Government shall provide for the remuneration of the Commissioner appointed by it.

The remuneration of the Umpire, if one should be appointed, and all contingent and incidental expenses of the Commission, or of the Umpire, shall be defrayed by the two Governments in equal moieties.

Article VIII. The amount awarded to Great Britain under this Convention on account of any claimant shall be paid by the

Government of the United States to the Government of Her Britannic Majesty within six months after the amount thereof shall have been finally ascertained.

Article IX. The present Convention shall be duly ratified by Her Britannic Majesty and the President of the United States of America, by and with the advice and consent of the Senate thereof: and the ratifications shall be exchanged either at London or at Washington within six months from the date hereof, or earlier, if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done in duplicate at Washington, the 8th day of February, 1896.

(L.S.) JULIAN PAUNCEFOTE.
(L.S.) RICHARD OLNEY.

## Appendix of Claims.

Claims submitted to the Tribunal of Arbitration at Paris.

| Name of Vessel. | Date of Seizure. | Approximate distance from land when seized. | United States vessel making seizure. |
|---|---|---|---|
| | | Miles. | |
| Carolina | August 1, 1886 | 75 | Corwin. |
| Thornton | August 1, 1886 | 70 | Corwin. |
| Onward | August 2, 1886 | 115 | Corwin. |
| Favourite | August 2, 1886 | Warned by "Corwin" in about same position as "Onward". | |
| Anna Beck | July 2, 1887 | 66 | Rush. |
| W. P. Sayward | July 9, 1887 | 59 | Rush. |
| Dolphin | July 12, 1887 | 40 | Rush. |
| Grace | July 17, 1887 | 96 | Rush. |
| Alfred Adams | August 10, 1887 | 62 | Rush. |
| Ada | August 25, 1887 | 15 | Bear. |
| Triumph | August 4, 1887 | Warned by "Rush" not to enter Behring Sea. | |
| Juanita | July 31, 1889 | 66 | Rush. |
| Pathfinder | July 29, 1889 | 50 | Rush. |
| Triumph | July 11, 1889 | Ordered out of Behring Sea by "Rush". Query as to position when warned. | |
| Black Diamond | July 11, 1889 | 35 | Rush. |
| Lily | August 6, 1889 | 66 | Rush. |
| Ariel | July 30, 1889 | Ordered out of Behring Sea by "Rush". | |
| Kate | August 13, 1889 | " " | Rush. |
| Minnie | July 15, 1889 | 65 miles | Rush. |
| Pathfinder | March 27, 1890 | Seized in Neah Bay | Corwin. |
| Personal claims | 1886 | | |
| " " | 1887 | | |
| Costs in "Sayward" case | | | |

Additional Claims.

"Wanderer"..... .....1887-89
"Winifred"..... ..... .. .....1891
"Henrietta" .... ; ..... ..... .....1892
"Oscar and Hattie"..... ..... .... 1892

## [1] AWARD OF THE BEHRING SEA CLAIMS COMMISSION UNDER THE CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF THE 8TH OF FEBRUARY, 1896.—December 17, 1897.

Whereas by a Convention between Great Britain and the United States of America, signed at Washington on the 8th February, 1896, it was, among other matters, agreed and concluded that "all claims on account of injuries sustained by persons in whose behalf Great Britain is entitled to claim compensation from the United States, and arising by virtue of" a certain Treaty between Great Britain and the United States, signed at Washington on the 29th February, 1892, the Award and Findings of the Tribunal of Arbitration constituted thereunder as also certain additional claims specified in the preamble of the Convention first above mentioned, should be referred to two Commissioners, one of whom should be appointed by Her Britannic Majesty and the other by the President of the United States, and each of whom should be learned in the law; and it was further agreed and concluded in the Convention first herein named that said Commissioners should determine the liability of the United States, if any, in respect of each claim, and assess the amount of compensation, if any, to be paid on account thereof.

And whereas Her Britannic Majesty appointed the Honourable George Edwin King, a Justice of the Supreme Court of Canada, one of said Commissioners, and the President of the United States of America appointed the Honourable William L. Putnam, a Judge of the Circuit Court of the United States for the First Circuit, the other of said Commissioners; and we, the said Commissioners, having met at Victoria, in the Province of British Columbia, Canada, on the 23rd day of November, A.D. 1896, and our respective powers having been found to be duly authenticated, and each of us having duly taken the oath prescribed by the Convention, proceeded jointly to the discharge of our duties thereunder; and, having heard and

[1] From Hertslet's Commercial Treaties, Vol. 21, p. 1063.

examined on oath or affirmation every question of fact not found by the Tribunal of Arbitration under the Treaty between Her Britannic Majesty and the United States of America, signed at Washington on the 29th February, 1892, and having received all suitable authentic testimony concerning the same, and being attended by counsel on behalf of Great Britain, and by counsel on behalf of the United States of America, who were duly heard before us, and having impartially and carefully examined the question submitted to us:

Now, therefore, we, the said Commissioners, do hereby determine, adjudge, and award as follows:—

The rate of interest awarded by us is 6 per cent per annum, being the statutory rate at Victoria, British Columbia, during the period covered, but being less than the current rate thereat.

As to the claim in respect of the vessel "Carolena" it is determined that the United States are liable to Great Britain in respect thereof, and we assess the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel as follows: 13,341 dol. 72c, with interest from the 10th September, 1886, until this day, amounting to 9,020 dol. 71c, and making a total of principal and interest of 22,362 dol. 43c.

As to the claim in respect of the vessel "Thornton," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation, to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, that is to say: 13,521 dol. 10c., with interest from the 10th September, 1886, until this day, amounting to 9,142 dol. 53c. and making a total of principal and interest of 22,663 dol. 63c.

As to the claim in respect of the vessel "Onward" it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel (exclusive of the net interest of Alexander McLean, who at the time of the Convention was a citizen of the United States and domiciled therein, and has so remained) as follows, that is to say: 9,376 dollars, with interest from the 10th September, 1886, until this day, amounting to

6,339 dol. 74c, and making a total of principal and interest of the sum of 15,715 dol. 74c.

As to the claim in respect of the vessel "Favourite" it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain on behalf of the owners, master, officers, and crew of the vessel (exclusive of the net interest of said Alexander McLean) as follows, that is to say: 3,202 dollars, with interest from the 10th September, 1886, until this day, amounting to 2,165 dol. 8c, and making a total of principal and interest of the sum of 5,367 dol. 8c.

As to the claim in respect of the vessel "W. P. Sayward," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 12,537 dol. 50c, with interest from the 10th September, 1887, until this day, amounting to 7,725 dol. 22c, and making a total of principal and interest of the sum of 20,262 dol. 72c.

As to the claim in respect of the vessel "Anna Beck," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers and crew of the vessel, as follows, that is to say: 21,692 dol. 50c, with interest from the 10th September, 1887, until this day, amounting to 13,366 dol. 19c, making a total of principal and interest of the sum of 35,058 dol. 69c.

As to the claim in respect of the vessel "Alfred Adams," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, exclusive of the net interest of Alexander Frank, who at the time of the Convention was a citizen of the United States, and domiciled therein, and has so remained as follows, that is to say: 10,124 dollars, with interest from the 10th September, 1887, until this day, amounting to 6,238 dol. 7c, and making a total of principal and interest of the sum of 16,362 dol. 7c.

As to the claim in respect of the vessel "Grace," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say.: 26,213 dol. 50c, with interest from the 10th September, 1887, until this day, amounting to 16,125 dol. 67c, and making a total of principal and interest of 42,339 dol. 17c.

As to the claim in respect of the vessel "Dolphin," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Gritain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 31,484 dollars, with interest from the 10th September, 1887, until this day amounting to the sum of 19,399 dol. 38c. and making a total of principal and interest of the sum of 50,883 dol. 38c.

As to the claim in respect of the vessel "Ada," it is adjudged and determined that the United States of America are liable to Great Britain in excess thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 20,902 dol. 69c, with interest from the 10th September, 1887, until this day, amounting to 12,880 dol. 1c, and making a total of principal and interest of the sum of 33,782 dol. 70c.

As to the claim in respect of the vessel "Triumph," warned or seized the 4th August, 1887, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 1,750 dollars with interest from the 10th September, 1887, until this day, amounting to 1,078 dol. 29c, and making a total of principal and interest of the sum of 2,828 dol. 29c.

As to the claim in respect of the vessel "Juanita," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account

thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 11,493 dollars, with interest from the 10th September, 1889, until this day, amounting to 5,702 dol. 44c, and making a total of principal and interest of the sum of 17,195 dol. 44c.

As to the claim in respect of the vessel "Pathfinder," seized or warned the 29th July, 1889, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 13,796 dollars, with interest from the 10th September, 1889, until this day, amounting to 6,845 dol. 12c, and making a total of principal and interest of the sum of 20,641 dol. 12c.

As to the claim in respect of the vessel "Triumph," seized or warned the 11th July, 1889, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel as follows, that is to say: 15,450 dollars, with interest from the 10th September, 1889, until this day, amounting to 7,665 dol. 77c, and making a total of principal and interest of the sum of 23,115 dol. 77c.

As to the claim in respect of the vessel "Black Diamond," seized or warned 11th July, 1889, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 15,173 dollars, with interest from the 10th September, 1889, until this day, amounting to 7,528 dol. 32c, and making a total of principal and interest of the sum of 22,701 dol. 32c.

As to the claim in respect of the vessel "Lily," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 11,739 dollars, with interest from the 10th September, 1889, until

this day, amounting to 5,832 dol. 48c, and making a total of principal and interest of the sum of 17,571 dol. 48c.

As to the claim in respect of the vessel "Ariel," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 4,950 dollars, with interest from the 10th September, 1889, until this day, amounting to 2,456 dol. 3c, and making a total of principal and interest of the sum of 7,406 dol. 3c.

As to the claim in respect of the vessel "Kate," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 3,050 dollars, with interest from the 10th September, 1889, until this day, amounting to 1,513 dol. 31c, and making a total of principal and interest of the sum of 4,563 dol. 31c.

As to the claim in respect of the vessel "Minnie," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 8,460 dollars, with interest from the 10th September, 1889, until this day amounting to 4,197 dol. 57c, and making a total of principal and interest of the sum of 12,657 dol. 57c.

As to the claim in respect of the vessel "Pathfinder," seized 27th March, 1890, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers and crew of the vessel, as follows, that is to say: 800 dollars, with interest from the 27th March, 1890, until this day, amounting to 370 dol. 67c, and making a total of principal and interest of the sum of 1,170 dol. 67c.

As to the claim in respect of the vessel "Wanderer," it is adjudged and determined that there is no liability on the part of the United States of America in respect of such claim.

As to the claim in respect of the vessel "Winnifred," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners thereof, as follows, that is to say: 3, 283 dol. 5c, with interest from the 27th July, 1892, until this day, amounting to 1,061 dol. 52c, and making a total of principal and interest of the sum of 4,344 dol. 57c.

As to the claim in respect of the vessel "Henrietta," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: 9,599dol. 85c, with interest on 2,437 dollars from the 2nd September, 1892 until this day, and upon the balance from the 17th February, 1894, until this day, making the entire interest 2,421 dol. 19c, making a total of principal and interest of the sum of 12,021 dol. 4c.

As to the claim in respect of the vessel "Oscar and Hattie," it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners thereof, as follows, that is to say: 2,250 dollars, with interest from the 30th August, 1892, until this day, amounting to 715 dol. 5c, and making a total of principal and interest of the sum of 2,965 dol. 5c.

As to the personal claims, we adjudge and determine that the United States of America are liable on account of the following persons, and assess and award the amount of compensation to be paid to Great Britain on account of each of them, as follows:—

Daniel Munroe, master of the "Onward," the principal sum of 3,000 dollars, with interest from the 10th September, 1886, to this day, making a total amount of 5,028 dol. 50c.

John Margotich, mate of the "Onward," the principal sum of 2,500 dollars, with interest from the 10th September, 1886, to this day, making a total amount of 4,190 dol. 42c.

Hans Guttormsen, master of the "Thornton," the principal sum of 3,000 dollars, with interest from the 10th Sep-

tember, 1886, to this day, making a total amount of 5,028dol. 50c.

Harry Norman, mate of the "Thornton," the principal sum of 2,500 dollars, with interest from the 10th September, 1886, to this day, making a total amount of 4,190 dol. 42c.

James Ogilvie, master of the "Carolena," the principal sum of 3,000 dollars, with interest from the 10th September, 1886, to this day, making a total of 5,028 dol. 50c.

James Blake, mate of the "Carolena," the principal sum of 2,500 dollars, with interest from the 10th September, 1886, to this day, making a total amount of 4,190 dol. 42c.

James D. Warren, master of the "Dolphin," the principal sum of 2,000 dollars, with interest from the 10th September, 1887, to this day, making a total amount of 3,232 dol. 33c.

John Reilly, mate of the "Dolphin," the principal sum of 1,500 dollars, with interest from the 10th September, 1887, to this day, making a total amount of 2,424 dol. 25c.

George P. Ferey, master of the "W. P. Sayward," the principal sum of 2,000 dollars, with interest from the 10th September, 1887, to this day, making a total amount of 3,232 dol. 33c.

A. B. Laing, mate of the "W. P. Sayward," the principal sum of 1,500 dollars, with interest from the 10th September, 1887, to this day, making a total amount of 2,424 dol. 25c.

Louis Olsen, master of the "Anna Beck," the principal sum of 2,000 dollars, with interest from the 10th September, 1887, to this day, making a total amount of 3,232 dol. 33c.

Michael Keefe, mate of the "Anna Beck," the principal sum of 1,500 dollars, with interest from the 10th September, 1887, to this day, making a total amount of 2,424 dol. 25c.

W. Petit, master of the "Grace," the principal sum of 2,000 dollars, with interest from the 10th September, 1887, to this day, making a total amount of 3,232 dol. 33c.

C. A. Lundberg, mate of the "Ada," the principal sum of 1,000 dollars, with interest from the 10th September, 1887, to this day, making a total amount of 1,616 dol. 17c.

As to "costs in 'Sayward' case," it is adjudged and determined that there is no liability on the part of the United States of America in respect of such claim.

Her Majesty also presented for our consideration the following claims, that is to say:—

In behalf of the "Black Diamond," warned by the Collector at Unalaska on the 1st July, 1886, and also in behalf of James Gaudin, master of the "Ada," as to each of which we determine and award that we have no jurisdiction, and we dismiss the same.

Made in duplicate, and signed by us this 17th day of December, A.D. 1897.

GEORGE E. KING, Commissioner,
*Appointed by Her Britannic Majesty.*

WILLIAM L. PUTNAM, Commissioner,
*Appointed by the President of the United States.*

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Respecting the claims mentioned in the Award of the Commissioners as having been presented on behalf of Great Britain, and dismissed as not being within our jurisdiction, namely, the claim of the "Black Diamond," arising in the year 1886, and the present claim of James Gaudin, the Commissioners in pursuance of the communication to them from Her Britannic Majesty's Ambassador at Washington, and the Secretary of State for the United States, dated at Washington, the 26th January, 1897, and appearing in the Protocol of the 2nd February, 1897, beg to report as follows:—

We find that damage was sustained by the owners, master, officers, and crew of the "Black Diamond," in connection with the notice given by the Collector of Customs at Unalaska on the 1st July, 1886, to the amount of 5,000 dollars, with interest at the rate of 6 per cent per annum from the 10th September, 1887.

And as to the personal claim of James Gaudin, master of the "Ada" in 1887, we report that the amount of damage sustained by him was 1,000 dollars, with interest at the rate of 6 per cent per annum from the 10th September, 1887.

GEORGE E. KING, Commissioner,
*Appointed by Her Britannic Majesty.*

WILLIAM L. PUTNAM, Commissioner,
*Appointed by the President of the United States.*

December 17, 1897.

## 1900.

## [1] SUPPLEMENTARY CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES, FOR THE MUTUAL EXTRADITION OF FUGITIVE CRIMINALS (ENLARGING LIST OF CRIMES).—SIGNED AT WASHINGTON, DECEMBER 13, 1900.

(*Ratifications exchanged at Washington, April 22, 1901.*)

Her Majesty the Queen of Great Britain and Ireland and the President of the United States of America, being desirous of enlarging the list of crimes on account of which extradition may be granted under the Convention concluded between Her Britannic Majesty and the United States on the 12th July, 1889, with a view to the better administration of justice and the prevention of crime in their respective territories and jurisdictions, have resolved to conclude a Supplementary Convention for this purpose, and have appointed as their Plenipotentiaries, to wit:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Excellency the Right Honourable Lord Pauncefote, Knight Grand Cross of the Most Honourable Order of the Bath, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, and Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States; and

The President of the United States, the Honourable John Hay, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

Article I.—The following crimes are added to the list of crimes numbered 1 to 10 in the first Article of the said Convention of the 12th July, 1889, on account of which extradition may be granted, that is to say:

11. Obtaining money, valuable securities, or other property by false pretences.

12. Wilful and unlawful destruction or obstruction of railroads which endangers human life.

13. Procuring abortion.

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[1] From British & Foreign State Papers, Vol. 92, p. 72.

Article II.—The present Convention shall be considered as an integral part of the said Extradition Convention of the 12th July, 1889, and the first Article of the last-mentioned Convention shall be read as if the list of crimes therein contained had originally comprised the additional crimes specified, and numbered 11 to 13 in the first Article of the present Convention.

The present Convention shall be ratified, and the ratifications shall be exchanged either at London or Washington as soon as possible.

It shall come into force ten days after its publication, in conformity with the laws of the High Contracting Parties, and it shall continue and terminate in the same manner as the said Convention of the 12th July, 1889.

In testimony whereof the respective Plenipotentiaries have signed the present Convention in duplicate, and have thereunto affixed their seals.

Done at Washington, this 13th day of December, 1900.

(L.S.) PAUNCEFOTE.
(L.S.) JOHN HAY.

## 1901.

## [1] TREATY BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RELATIVE TO THE ESTABLISHMENT OF A COMMUNICATION BY SHIP CANAL BETWEEN THE ATLANTIC AND PACIFIC OCEANS.—SIGNED AT WASHINGTON, NOVEMBER 18, 1901.

(*Ratifications exchanged at Washington, February 21, 9012.*

His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, and Emperor of India; and the United States of America; being desirous to facilitate the construction of a ship-canal to connect the Atlantic and Pacific Oceans by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the Convention of the 19th April, 1850, commonly called the Clayton-Bulwer

[1] From Treaty Series No. 6, 1902.

Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that Convention, have for that purpose appointed as their Plenipotentiaries:

His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, and Emperor of India, the Right Honourable Lord Pauncefote, G.C.B., G.C.M.G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States; and

The President of the United States, John Hay, Secretary of State of the United States of America;

Who, having communicated to each other their full powers which were found to be in due and proper form, have agreed upon the following Articles:

### Article I.

The High Contracting Parties agree that the present Treaty shall supersede the afore-mentioned Convention of the 19th April, 1850.

### Article II.

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money, to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present Treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

### Article III.

The United States adopts, as the basis of the neutralization of such ship-canal, the following Rules, substantially as embodied in the Convention of Constantinople, signed the 29th October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules on terms

of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise.

Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same Rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this Article shall apply to waters adjacent to the canal, within three marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this Treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

## Article IV.

It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle

of neutralization or the obligation of the High Contracting Parties under the present Treaty.

ARTICLE V.

The present Treaty shall be ratified by His Britannic Majesty, and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective Plenipotentiaries have signed this Treaty and thereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, in the year of Our Lord one thousand nine hundred and one.

(Seal) PAUNCEFOTE.
(Seal) JOHN HAY.

## 1903.

## [1] CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA, FOR THE ADJUSTMENT OF THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND THE TERRITORY OF ALASKA.—SIGNED AT WASHINGTON, JANUARY 24, 1903.

*(Ratifications exchanged at Washington, March 3, 1903.)*

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the United States of America, equally desirous for the friendly and final adjustment of the differences which exist between them in respect to the true meaning and application of certain clauses of the Convention between Great Britain and Russia, signed under date of the 28th (16th February), A.D. 1825, which clauses relate to the delimitation of the boundary line between the territory of Alaska, now in possession of the United States, and the British possessions in North America, have resolved to provide for the submission of the questions as hereinafter stated to a Tribunal

[1] From Treaty Series No. 4, 1903.

and to that end have appointed their respective Plenipotentiaries, as follows:—

His Britannic Majesty, the Right Honourable Sir Michael H. Herbert, K.C.M.G., C.B., His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary; and

The President of the United States of America, John Hay, Secretary of State of the United States;

Who, after an exchange of their full powers, which were found to be in good and due form, have agreed upon the following Articles:

Article I. A Tribunal shall be immediately appointed to consider and decide the questions set forth in Article IV of this Convention. The Tribunal shall consist of six impartial jurists of repute, who shall consider judicially the questions submitted to them, each of whom shall first subscribe an oath that he will impartially consider the arguments and evidence presented to the Tribunal, and will decide thereupon according to his true judgment. Three members of the Tribunal shall be appointed by His Britannic Majesty and three by the President of the United States. All questions considered by the Tribunal, including the final award, shall be decided by a majority of all the members thereof.

In case of the refusal to act, or of the death, incapacity, or abstention from service of any of the persons so appointed, another impartial jurist of repute shall be forthwith appointed in his place by the same authority which appointed his predecessor.

The Tribunal may appoint a Secretary and a Bailiff to perform such duties as they may prescribe, and may employ scientific experts if found to be necessary, and may fix a reasonable compensation for such officers. The Tribunal shall keep an accurate record of all its proceedings.

Each of the High Contracting Parties shall make compensation for the services of the members of the Tribunal of its own appointment and of any agent, counsel, or other person employed in its behalf, and shall pay all costs incurred in the preparation of its Case. All expenses reasonably incurred by the Tribunal in the performance of its duties shall be paid by the respective Governments in equal moieties.

The Tribunal may, subject to the provisions of this Convention, establish all proper rules for the regulation of its proceedings.

Article II. Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent.

The written or printed case of each of the two parties, accompanied by the documents, the official correspondence, and all other evidence in writing or print on which each Party relies, shall be delivered in duplicate to each member of the Tribunal and to the Agent of the other Party as soon as may be after the organization of the Tribunal but within a period not exceeding two months from the date of the exchange of ratifications of this Convention.

Within two months after the delivery on both sides of the written or printed Case, either Party may, in like manner, deliver in duplicate to each member of the Tribunal, and to the Agent of the other Party, a Counter-Case, and additional documents, correspondence and evidence, in reply to the Case, documents, correspondence and evidence so presented by the other Party. The Tribunal may, however, extend this last mentioned period when in their judgment it becomes necessary, by reason of special difficulties which may arise in the procuring of such additional papers and evidence.

If in the Case submitted to the Tribunal either Party shall have specified or referred to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party shall demand it, within thirty days after the delivery of the Case, to furnish to the Party applying for it a duly certified copy thereof: and either Party may call upon the other, through the Tribunal, to produce the original or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Tribunal may require; and the original or copy so requested shall be delivered as soon as may be and within a period not exceeding forty days after receipt of notice.

Each Party may present to the Tribunal all pertinent evidence, documentary, historical, geographical, or topographical, including maps and charts, in its possession or control and applicable to the rightful decision of the questions submitted; and if it appears to the Tribunal that there is evidence pertinent to the case in the possession of either Party, and which has not been produced, the Tribunal may in its discretion order the production of the same by the Party having control thereof.

It shall be the duty of each Party, through its Agent, or Counsel, within two months from the expiration of the time limited for the delivery of the Counter-Case on both sides, to

deliver in duplicate to each member of the said Tribunal and to the Agent of the other Party a written or printed argument showing the points and referring to the evidence upon which his Government relies, and either Party may also support the same before the Tribunal by oral argument of Counsel. The Tribunal may, if they shall deem further elucidation with regard to any point necessary, require from either Party a written, printed, or oral statement or argument upon the point; but in such case the other Party shall have the right to reply thereto.

Article III. It is agreed by the High Contracting Parties that the Tribunal shall consider in the settlement of the questions submitted to its decisions the Treaties respectively concluded between His Britannic Majesty and the Emperor of All the Russias under date of the 28th (16th) February, A.D. 1825, and between the United States of America and the Emperor of All the Russias, concluded under date of the 18th (30th) March, A.D. 1867, and particularly the Articles III, IV and V of the first-mentioned Treaty, which in the original text are, word for word, as follows:—

"III. La ligne de démarcation entre les possessions des Hautes Parties Contractantes sur la côte du Continent et les Iles de l'Amérique Nord-ouest, sera tracée ainsi qu'il suit:—

"A partir du point le plus méridional de l'île dite *Prince of Wales,* lequel point se trouve sous la parallèle du 54° 40′ de latitude nord, et entre le 131*e* et le 133*e* degré de longitude ouest (méridien de Greenwich), la dite ligne remontera au nord le long de la passe dite *Portland Channel,* jusqu'au point de la terre ferme où elle atteint le 56*e* degré de latitude nord; de ce dernier point la ligne de démarcation suivra la crête des montagnes situées parallèlement à la côte, jusqu'au point d'intersection du 141*e* degré de longitude ouest (même méridien); et, finalement, du dit point d'intersection, la même ligne méridienne du 141*e* degré formera, dans son prolongement jusqu'à la mer glaciale, la limite entre les possessions Russes et Britanniques sur le Continent de l'Amérique Nord-ouest.

"IV. Il est entendu par rapport à la ligne de démarcation déterminée dans l'Article précédent:—

"1. Que l'île dite *Prince of Wales* appartiendra tout entière à la Russie.

"2. Que partout où la crête des montagnes qui s'étendent dans une direction parallèle à la côte depuis le 56*e* degré de

latitude nord au point d'intersection du 141*e* degré de longitude ouest se trouverait à la distance de plus de dix lieues marines de l'Océan, la limite entre les possessions Britanniques et la lisière de côte mentionnée ci-dessus comme devant appartenir à la Russie sera formée par une ligne parallèle aux sinuosités de la côte, et qui ne pourra jamais en être éloignée que de dix lieues marines.

"V. Il est convenu, en outre, que nul établissement ne sera formé par l'une des deux Parties dans les limites que les deux Articles précédents assignent aux possessions de l'autre. En conséquence, les sujets britanniques ne formeront aucun établissement soit sur la côte, soit sur la lisière de terre ferme comprise dans les limites des possessions Russes, telles qu'elles sont désignées dans les deux articles précedents; et, de même, nul établissement ne sera formé par des sujets Russes au delà des dites limites."

The Tribunal shall also take into consideration any action of the several Governments or of their respective Representatives preliminary or subsequent to the conclusion of said Treaties, so far as the same tends to show the original and effective understanding of the Parties in respect to the limits of their several territorial jurisdictions under and by virtue of the provisions of said Treaties.

Article IV. Referring to Articles III, IV, and V of the said Treaty of 1825, the said Tribunal shall answer and decide the following questions:—

1. What is intended as the point of commencement of the line?

2. What channel is the Portland channel?

3. What course should the line take from the point of commencement to the entrance to Portland Channel?

4. To what point on the 56th parallel is the line to be drawn from the head of the Portland Channel, and what course should it follow between these points?

5. In extending the line of demarcation northward from said point on the parallel of the 56th degree of north latitude, following the crest of the mountains situated parallel to the coast until its intersection with the 141st degree of longitude west of Greenwich, subject to the condition that if such line

should anywhere exceed the distance of 10 marine leagues from the ocean then the boundary between the British and the Russian territory should be formed by a line parallel to the sinuosities of the coast and distant therefrom not more than 10 marine leagues, was it the intention and meaning of said Convention of 1825 that there should remain in the exclusive possession of Russia a continuous fringe or strip of coast on the mainland, not exceeding 10 marine leagues in width, separating the British possessions from the bays, ports, inlets, havens, and waters of the ocean, and extending from the said point on the 56th degree of latitude north to a point where such line of demarcation should intersect the 141st degree of longitude west of the meridian of Greenwich?

6. If the foregoing question should be answered in the negative, and in the event of the summit of such mountains proving to be in places more than 10 marine leagues from the coast, should the width of the *lisière* which was to belong to Russia be measured (1) from the mainland coast of the Ocean, strictly so-called, along a line perpendicular thereto, or (2) was it the intention and meaning of the said Convention that where the mainland coast is indented by deep inlets forming part of the territorial waters of Russia, the width of the *lisière* was to be measured (a) from the line of the general direction of the mainland coast or, (b) from the line separating the waters of the Ocean from the territorial waters of Russia, or (c) from the heads of the aforesaid inlets?

7. What, if any exist, are the mountains referred to as situated parallel to the coast, which mountains, when within ten marine leagues from the coast, are declared to form the eastern boundary?

Article V. The Tribunal shall assemble for their first meeting at London as soon as practicable after receiving their commissions, and shall themselves fix the times and places of all subsequent meetings.

The decision of the Tribunal shall be made so soon as possible after the conclusion of the arguments in the Case, and within three months thereafter, unless His Britannic Majesty and the President of the United States shall by common accord extend the time therefor. The decision shall be made in writing and dated, and shall be signed by the members of the Tribunal assenting to the same. It shall be signed in dupli-

cate, one copy whereof shall be given to the Agent of His Britannic Majesty for his Government, and the other to the Agent of the United States of America for his Government.

Article VI. When the High Contracting Parties shall have received the decision of the Tribunal upon the questions submitted as provided in the foregoing Articles, which decision shall be final and binding upon all Parties, they will at once appoint, each on its own behalf, one or more scientific experts, who shall with all convenient speed, proceed together to lay down the boundary-line in conformity with such decision.

Should there be, unfortunately, a failure by a majority of the Tribunal to agree upon any of the points submitted for their decision, it shall be their duty to so report in writing to the respective Governments through their respective Agents. Should there be an agreement by a majority upon a part of the questions submitted, it shall be their duty to sign and report their decision upon the points of such agreement in the manner hereinbefore prescribed.

Article VII. The present Convention shall be ratified by His Britannic Majesty, and by the President of the United States, by and with the advice and consent of the Senate, and the ratifictaions shall be exchanged in London or in Washington so soon as the same may be effected.

In faith whereof we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done at Washington, in duplicate, this 24th day of January, A.D. 1903.

(L.S.) MICHAEL H. HERBERT.
(L.S.) JOHN HAY.

## [1] AWARD OF THE ALASKA BOUNDARY TRIBUNAL (QUESTION BETWEEN THE GOVERNMENTS OF GREAT BRITAIN AND THE UNITED STATES).—OCTOBER 20, 1903.

Whereas by a Convention signed at Washington on the 24th day of January, 1903, by Plenipotentiaries of and on behalf of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and of and on behalf of the United States of America, it was agreed that a Tribunal should

[1] From British & Foreign State Papers, Vol. 98, p. 152.

be appointed to consider and decide the questions hereinafter set forth, such Tribunal to consist of six impartial Jurists of repute, who should consider judicially the questions submitted to them, each of whom should first subscribe an oath that he would impartially consider the arguments and evidence presented to the said Tribunal, and would decide thereupon according to his true judgment, and that three members of the said Tribunal should be appointed by His Britannic Majesty and three by the President of the United States;

And whereas it was further agreed by the said Convention that the said Tribunal should consider, in the settlement of the said questions submitted to its decision, the Treaties respectively concluded between His Britannic Majesty and the Emperor of All the Russias, under date of the 28th (16th) February, A.D. 1825, and between the United States of America and the Emperor of All the Russias, concluded under date of the 18th (30th) March, A.D. 1867, and particularly the Articles III, IV, and V of the first-mentioned Treaty, and should also take into consideration any action of the several Governments or of their respective representatives, preliminary or subsequent to the conclusion of the said Treaties, so far as the same tended to show the original and effective understanding of the parties in respect to the limits of their several territorial jurisdictions under and by virtue of the provisions of the said Treaties;

And whereas it was further agreed by the said Convention, referring to Articles III, IV, and V of the said Treaty of 1825, that the said Tribunal should answer and decide the following questions:—

1. What is intended as the point of commencement of the line?

2. What channel is the Portland Channel?

3. What course should the line take from the point of commencement to the entrance to Portland Channel?

4. To what point on the 56th parallel is the line to be drawn from the head of the Portland Channel, and what course should it follow between these points?

5. In extending the line of demarcation northward from said point on the parallel of the 56th degree of north latitude, following the crest of the mountains situated parallel to the coast until its intersection with the 141st degree of longitude west of Greenwich, subject to the conditions that if such line

should anywhere exceed the distance of 10 marine leagues from the ocean, then the boundary between the British and the Russian territory should be formed by a line parallel to the sinuosities of the coast and distant therefrom not more than 10 marine leagues, was it the intention and meaning of the said Convention of 1825 that there should remain in the exclusive possession of Russia a continuous fringe, or strip, of coast on the mainland, not exceeding 10 marine leagues in width, separating the British possessions from the bays, ports, inlets, havens, and waters of the ocean, and extending from the said point on the 56th degree of latitude north to a point where such line of demarcation should intersect the 141st degree of longitude west of the meridian of Greenwich?

6. If the foregoing question should be answered in the negative, and in the event of the summit of such mountains proving to be in places more than 10 marine leagues from the coast, should the width of the *lisière,* which was to belong to Russia, be measured (1) from the mainland coast of the ocean, strictly so-called, along a line perpendicular thereto, or (2) was it the intention and meaning of the said Convention that where the mainland coast is indented by deep inlets forming part of the territorial waters of Russia, the width of the *lisière* was to be measured (a) from the line of the general direction of the mainland coast, or (b) from the line separating the waters of the ocean from the territorial waters of Russia, or (c) from the heads of the aforesaid inlets?

7. What, if any exist, are the mountains referred to as situated parallel to the coast, which mountains, when within 10 marine leagues from the coast, are declared to form the eastern boundary?

And whereas His Britannic Majesty duly appointed Richard Everard, Baron Alverstone, G.C.M.G., Lord Chief Justice of England, Sir Louis Amable Jetté, K.C.M.G., Lieutenant-Governor of the Province of Quebec, and Allen Bristol Aylesworth, one of His Majesty's Counsel; and the President of the United States of America duly appointed the Honourable Elihu Root, Secretary of War of the United States, the Honourable Henry Cabot Lodge, Senator of the United States from the State of Massachusetts, and the Honourable George Turner, of the State of Washington, to be members of the said Tribunal:

Now, therefore, we, the Undersigned, having each of us first subscribed an oath, as provided by the said Convention, and

having taken into consideration the matters directed by the said Convention to be considered by us, and having judicially considered the said questions submitted to us, do hereby make Answer and Award as follows:—

In answer to the 1st question—

The Tribunal unanimously agrees that the point of commencement of the line is Cape Muzon.

In answer to the 2nd question—

The Tribunal unanimously agrees that the Portland Channel is the channel which runs from about 55° 56′ north latitude, and passes to the north of Pearse and Wales Islands.

A majority of the Tribunal, that is to say, Lord Alverstone, Mr. Root, Mr. Lodge, and Mr. Turner, decides that the Portland Channel, after passing to the north of Wales Island, is the channel between Wales Island and Sitklan Island, called Tongass Channel. The Portland Channel above mentioned is marked throughout its length by a dotted red line from the point B to the point marked C on the map signed in duplicate by the members of the Tribunal at the time of signing their decision.

In answer to the 3rd question—

A majority of the Tribunal, that is to say, Lord Alverstone, Mr. Root, Mr. Lodge, and Mr. Turner, decides that the course of the line from the point of commencement to the entrance to Portland Channel is the line marked A B in red on the aforesaid map.

In answer to the 4th question—

A majority of the Tribunal, that is to say, Lord Alverstone, Mr. Root, Mr. Lodge, and Mr. Turner, decides that the point to which the line is to be drawn from the head of the Portland Channel is the point on the 56th parallel of latitude marked D on the aforesaid map, and the course which the line should follow is drawn from C to D on the aforesaid map.

In answer to the 5th question—

A majority of the Tribunal, that is to say, Lord Alverstone, Mr. Root, Mr. Lodge, and Mr. Turner, decides that the answer to the above question is in the affirmative.

Question 5 having been answered in the affirmative, question 6 requires no answer.

In answer to the 7th question—

A majority of the Tribunal, that is to say, Lord Alverstone, Mr. Root, Mr. Lodge, and Mr. Turner, decides that the moun-

tains marked S on the aforesaid map are the mountains referred to as situated parallel to the coast on that part of the coast where such mountains marked S are situated, and that between the points marked P (mountain marked S, 8,000) on the north, and the point marked T (mountain marked S, 7,950) in the absence of further survey, the evidence is not sufficient to enable the Tribunal to say which are the mountains parallel to the coast within the meaning of the Treaty.

In witness whereof we have signed the above-written decision upon the questions submitted to us.

Signed in duplicate this 20th day of October, 1903.

ALVERSTONE.
ELIHU ROOT.
HENRY CABOT LODGE.
GEORGE TURNER.

Witness:

REGINALD TOWER, Secretary.

## 1905.

[1] EXCHANGE OF NOTES BETWEEN THE BRITISH AND UNITED STATES GOVERNMENTS, RELATIVE TO THE ACCEPTANCE OF THE REPORT OF THE COMMISSIONERS TO COMPLETE THE AWARD[2] UNDER THE CONVENTION OF JANUARY 24, 1903, RESPECTING THE BOUNDARY LINE BETWEEN ALASKA AND THE BRITISH NORTH AMERICAN POSSESSIONS.—WASHINGTON, MARCH 25, 1905.

*United States Acting Secretary of State to H. M. Ambassador at Washington.*

DEPARTMENT OF STATE, WASHINGTON,
March 25, 1905.

EXCELLENCY,

Referring to your note of the 1st October, and Mr. Hay's reply of the 2nd of December, 1904, in regard to the report by Messrs. O. H. Tittmann and W. F. King, the Commissioners

[1] From British & Foreign State Papers, Vol. 98, p. 155.
[2] October 20, 1903, see page 140.

appointed to carry out the delimitation of the Alaska boundary so far as it was left undefined by the Award of the London Tribunal, and concerning the character of an Agreement between the United States and Great Britain for the formal acceptance of the recommendations of the Commissioners by an exchange of notes, I have the honour to state, by direction of the President, that the Government of the United States agrees with the Government of His Britannic Majesty that the part of the boundary between Alaska and Canada lying between the points P and T mentioned in the Award of the Tribunal of 1903 shall be defined, in accordance with the general principles laid down by said Tribunal, by the summits whose geographical co-ordinates are given with sufficient approximation for identification in the attached Table, provided that the Commissioners are hereby empowered, after they have secured sufficient data, to select additional and intermediate peaks between the points 7 and 8 and 8 and T where the distances between the peaks given in the Table exceed the probable limit of intervisibility: Provided also that no such additional and intermediate peak shall be more than 2,500 metres from the straight line joining peaks 7 and 8 or 8 and T of the attached Table, as follows:—

TABLE SHOWING THE POSITIONS AND DISTANCES OF PEAKS.

The latitudes and longitudes are taken from, and refer to, the maps Nos. 10 and 12 of the surveys made by the British Commission under the Convention of 1892. The successive peaks are designated by consecutive numbers, counting southward from point P.

| Points. | Latitude. | Longitude. | From. | To. | Approximate Distances. |
|---|---|---|---|---|---|
| | ° ′ ″ | ° ′ ″ | | | Metres. |
| Sheet 12— | | | | | |
| 1 | 58 36 29 | 133 41 55 | P | 1 | 15,840 |
| 2 | 58 31 01 | 133 33 14 | 1 | 2 | 12,800 |
| 3 | 58 24 40 | 133 26 09 | 2 | 3 | 13,680 |
| 4 | 58 22 35 | 133 27 09 | 3 | 4 | 4,000 |
| 5 | 58 16 10 | 133 21 08 | 4 | 5 | 13,200 |
| 6 | 58 13 24 | 133 16 48 | 5 | 6 | 6,960 |
| 7 | 58 09 07 | 133 11 10 | 6 | 7 | 9,700 |
| Sheet 10 | | | 7 | 8 | 81,440 |
| 8 | 57 29 47 | 132 32 52 | 8 | T | 36,800 |

Your acknowledgement of this communication, with a similar statement on behalf of the Government of His Majesty, will complete the agreed exchange of notes, and will confirm and give validity to the agreement reached by the Commissioners, thus completing the Award of the London Tribunal under the Convention of the 24th January, 1903, as to the above-described part of the Alaska boundary.

Expressing the President's satisfaction at this settlement of the matter, I have, &c.,

ALVEY A. ADEE,
Acting Secretary of State.

Sir H. M. Durand.

*H. M. Ambassador at Washington to United States Secretary of State.*

British Embassy, Washington, March 25, 1905.

Sir,—I have the honour to acknowledge the receipt of your note of this date in regard to the Report by Messrs. W. F. King and O. H. Tittmann, the Commissioners appointed to carry out the delimitation of the Alaska boundary so far as it was left undefined by the Award of the London Tribunal, and concerning the character of an agreement between Great Britain and the United States for the formal acceptance of the recommendations of the Commissioners by an exchange of notes.

By direction and on behalf of the Government of His Britannic Majesty, I have the honour to state that the Government of His Majesty agrees with the Government of the United States that the part of the boundary between Canada and Alaska lying between the points P and T, mentioned in the Award of the Tribunal of 1903, shall be defined, in accordance with the general principles laid down by said Tribunal, by the summits whose geographical co-ordinates are given with sufficient approximation for identication in the attached Table, provided that the Commissioners are hereby empowered, after they have secured sufficient data, to select additional and intermediate peaks between the points 7 and 8 and 8 and T where the distances between the peaks given in the Table exceed the probable limit of intervisibility: Provided also that no such additional and intermediate peak shall be more than 2,500 metres

from the straight line joining peaks 7 and 8 or 8 and T of the attached Table, as follows:—

TABLE SHOWING THE POSITIONS AND DISTANCES OF PEAKS.

The latitudes and longitudes are taken from, and refer to, the maps Nos. 10 and 12 of the surveys made by the British Commission under the Convention of 1892. The successive peaks are designated by consecutive numbers, counting southward from point P.

| Points. | Latitude. | Longitude. | From. | To. | Approximate Distances. |
|---|---|---|---|---|---|
| | ° ′ ″ | ° ′ ″ | | | Metres. |
| Sheet 12— | | | | | |
| 1 | 58 36 29 | 133 41 55 | P | 1 | 15,840 |
| 2 | 58 31 01 | 133 33 14 | 1 | 2 | 12,800 |
| 3 | 58 24 40 | 133 26 09 | 2 | 3 | 13,680 |
| 4 | 58 22 35 | 133 27 09 | 3 | 4 | 4,000 |
| 5 | 58 16 10 | 133 21 08 | 4 | 5 | 13,200 |
| 6 | 58 13 24 | 133 16 48 | 5 | 6 | 6,960 |
| 7 | 58 09 07 | 133 11 10 | 6 | 7 | 9,700 |
| Sheet 10 | .... ..... | ..... | 7 | 8 | 81,440 |
| 8 | 57 29 47 | 132 32 52 | 8 | T | 36,800 |

I am instructed to express the gratification of my Government that, by this exchange of notes, confirmation and validity are given to the Agreement reached by the Commissioners, thus completing the Award of the London Tribunal under the Convention of the 24th January, 1903, as to the above-described part of the Alaska boundary.

I have, &c.,

H. M. DURAND.

The Hon. John Hay.

## 1905.

[1] SUPPLEMENTARY CONVENTION BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA FOR THE MUTUAL SURRENDER OF FUGITIVE CRIMINALS.—SIGNED AT LONDON, APRIL 12, 1905.

(*Ratifications exchanged at Washington, December 21, 1906.*)

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the

[1] From Treaty Series No. 7, 1907.

Seas, Emperor of India; and the President of the United States of America; being desirous of enlarging the list of crimes on account of which extradition may be granted under the Conventions concluded between the United States and Great Britain on the 12th July, 1889, and the 13th December, 1900, with a view to the better administration of justice and the prevention of crime in their respective territories and jurisdictions, have resolved to conclude a Supplementary Convention for this purpose and have appointed as their Plenipotentiaries, to wit:

His Britannic Majesty, the Most Honourable Henry Charles Keith Petty-Fitzmaurice, Marquess of Lansdowne, His Majesty's Principal Secretary of State for Foreign Affairs;

And the President of the United States, the Honourable Joseph Hodges Choate, Ambassador Extraordinary and Plenipotentiary of the United States at the Court of His Britannic Majesty;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

Article I.—The following crimes are added to the list of crimes numbered 1 to 10 in the first Article of the said Convention of the 12th July, 1889, and to the list of crimes numbered 11 to 13 in Article I of the Supplementary Convention concluded between the United States and Great Britain on the 13th December, 1900, that is to say:

14. Bribery, defined to be the offering, giving, or receiving of bribes made criminal by the laws of both countries.

15. Offences, if made criminal by the laws of both countries, against bankruptcy law.

Article II.—The present Convention shall be considered as an integral part of the said Extradition Conventions of the 12th July, 1889, and the 13th December, 1900, and the 1st Article of the said Convention of the 12th July, 1889, shall be read as if the list of crimes therein contained had originally comprised the additional crimes specified and numbered 14 and 15 in the 1st Article of the present Convention.

The present Convention shall be ratified, and the ratifications shall be exchanged either at Washington or London as soon as possible.

It shall come into force ten days after its publication in conformity with the laws of the High Contracting Parties, and it shall continue and terminate in the same manner as the said Convention of the 12th July, 1889.

In testimony whereof the respective Plenipotentiaries have signed the present Convention in duplicate, and have thereunto affixed their seals.

Done at London, this 12th day of April, 1905.

(L.S.) LANSDOWNE.
(L.S.) JOSEPH H. CHOATE.

## 1906.

## [1] CONVENTION BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RESPECTING THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND ALASKA.—SIGNED AT WASHINGTON, APRIL 21, 1906.

*(Ratifications exchanged at Washington, August 16, 1906.)*

Whereas by a Treaty between the United States of America and His Majesty the Emperor of all the Russias, for the cession of the Russian possessions, in North America to the United States, concluded March 30, 1867, the most northerly part of the boundary line between the said Russian possessions and those of His Britannic Majesty, as established by the prior convention between Russia and Great Britain, of February $^{28}/_{16}$, 1825, is defined as following the 141st degree of longitude west from Greenwich, beginning at the point of intersection of the said 141st degree of west longitude with a certain line drawn parallel with the coast, and thence continuing from the said point of intersection, upon the said meridian of the 141st degree in its prolongation as far as the Frozen Ocean:

And whereas, the location of said meridian of the 141st degree of west longitude between the terminal points thereof defined in said Treaty, is dependent upon the scientific ascertainment of convenient points along the said meridian and the survey of the country intermediate between such points, involving no question of interpretation of the aforesaid Treaties but merely the determination of such points and their connecting lines by the ordinary processes of observation and survey conducted by competent astronomers, engineers and surveyors;

[1] From Treaty Series No. 15, 1906.

And whereas such determination has not hitherto been made by a joint survey as is requisite in order to give complete effect to said Treaties:

His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, and the United States of America, being equally desirous to provide for the surveying and marking out upon the ground of the said astronomical line established by existing treaties, and thus to remove any possible cause of difference between their respective governments in regard to the location of the said 141st meridian of west longitude, have resolved to conclude a Convention to that end, and for that purpose have appointed their respective Plenipotentiaries:

His Britannic Majesty, The Right Honourable Sir H. Mortimer Durand, G.C.M.G., K.C.S.I., K.C.I.E., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States; and

The President of the United States of America, The Honourable Elihu Root, Secretary of State of the United States:

Who, after having communicated to each other their respective full powers, which were found in due and proper form, have agreed to and concluded the following Articles:—

Article I. Each Government shall appoint one Commissioner with whom may be associated such surveyors, astronomers and other assistants as each Government may elect.

The Commissioners shall at as early a period as practicable ascertain by the telegraphic method a convenient point on the 141st meridian of west longitude and shall then proceed under their joint direction and by their joint operations in the field, to trace and mark so much of a north and south line passing through said point as is necessary to be defined for determining the exact boundary line as established by the said Convention of $^{28}/_{16}$ February, 1825, between the possessions in America of His Britannic Majesty, and the adjacent possessions in America formerly belonging to His Majesty the Emperor of all the Russias and ceded to the United States by the said Treaty of 30th March, 1867.

Article II. The location of the 141st meridian as determined hereunder shall be marked by intervisible objects, natural or artificial, at such distances apart as the Commissioners shall agree upon and by such additional marks as they shall deem

necessary, and the line when and where thus marked, in whole or in part, and agreed upon by the Commissioners, shall be deemed to define permanently for all international purposes the 141st meridian mentioned in the treaty of February 28 (16), 1825, between Great Britain and Russia.

The location of the marks shall be described by such views, maps and other means as the Commissioners shall decide upon and duplicate records of these descriptions shall be attested by the Commissioners jointly and be by them deposited with their respective governments, together with their final report hereinafter mentioned.

Article III. Each Government shall bear the expenses incident to the employment of its own appointees and of the operations conducted by them, but the cost of material used in permanently marking the meridian, and of its transportation and erection in place, shall be borne equally and jointly by the two Governments.

Article IV. The Commissioners shall diligently prosecute the work to its completion and they shall submit to their respective Governments from time to time, and at least once in every calendar year, a joint report of progress, and a final comprehensive report upon the completion of the whole work.

Article V. The present Convention shall be duly ratified by His Britannic Majesty, and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at London or at Washington as soon as possible.

In faith whereof, we the respective Plenipotentiaries have signed this convention, and have hereunto affixed our seals.

Done in duplicate at Washington this twenty-first day of April, in the year of our Lord one thousand nine hundred and six.

(L.S.) H. M. DURAND.
(L.S.) ELIHU ROOT.

## FIRST JOINT REPORT OF THE COMMISSIONERS FOR THE DEMARCATION OF THE 141st DEGREE OF WEST LONGITUDE.

The undersigned Commissioners, appointed in virtue of the first Article of the Convention between the United States and

Great Britain, signed at Washington on the 21st April, 1906, have the honour to present their first report upon the progress of the demarcation of the one hundred and forty-first meridian of west longitude where it forms the boundary line between the United States and Canada.

By Article I of the Convention it was provided that the survey of the line should be based upon a telegraphic determination of the longitude at some convenient point. When the undersigned became aware that the terms of the Convention had been agreed upon, they were met by the consideration that the refined astronomical observations requisite for this determination could not properly be made except during the summer, while the reduction of the observations would require a considerable time. In order that full advantage of the summer season of 1907 should be taken in the survey of the line, with a view especially to meeting urgent demands which had been made for an early demarcation of that portion which extends southward from the Yukon River to the St. Elias Alps, it appeared desirable that the astronomical observations which were a necessary preliminary to the operations should be completed during 1906.

The undersigned, having these circumstances in mind, decided to utilize in advance of the formal ratification and proclamation of the Convention, the organizations which are under their direction, namely, the Astronomical Branch of the Department of the Interior of Canada and the United States Coast and Geodetic Survey, in performing the astronomical work. Accordingly, observers were sent out about the end of July, who completed the necessary observations in August and September. The computations were made during the winter.

The only point of the 141st meridian which is in telegraphic communication with outside points is the crossing of the Yukon River. This point, therefore, was necessarily chosen for the astronomical determination. The telegraphic connection is by the lines of the Canadian Government and the Canadian Pacific Railway Company with Vancouver, B.C.; and also by the United States Government line, with Ft. Egbert, Alaska.

The longitude at Vancouver and Ft. Egbert, as reckoned from Greenwich, had already been determined by operations carried on under the two Governments and by the most approved methods. Hence a determination of the meridian by two telegraphic routes was possible, and as such double determination would result in increased accuracy, it was resolved

upon, and observers were sent to each of the three stations, Vancouver, Ft. Egbert and the meridian.

When the observations had been reduced the records and computations were examined by both Commissioners who, at a conference held in Ottawa in March last, agreed upon instructions to the line surveyors that the final and agreed longitude of the observing pier at the Yukon River was 9h. 24m. 0s. 027 west of Greenwich, or seventeen feet, approximately, to the west of the true meridian of one hundred and forty-one degrees west of Greenwich.

In pursuance of instructions prepared by the Commissioners at the conference above mentioned, a joint party was sent out in March for the purpose of establishing the initial point and determining the direction of the meridian. At the opening of navigation on the Yukon River in May, a joint survey party followed.

Two aluminum-bronze monuments have been placed to mark the meridian at the crossing of the Yukon, one on each bank, and at this date the tracing out of the line southward, and the triangulation and topographical work of the survey, are in active progress.

W. F. KING,
*H. B. M. Commissioner.*

O. H. TITTMANN,
*U. S. Commissioner.*

Ottawa, 27th August, 1907.

## SECOND JOINT REPORT OF THE COMMISSIONERS FOR THE DEMARCATION OF THE MERIDIAN OF THE 141st DEGREE OF WEST LONGITUDE.

The undersigned Commissioners, appointed in virtue of the First Article of the Convention between Great Britain and the United States, signed at Washington on the 21st April, 1906, have the honour to present their second report upon the progress of the demarcation of the 141st meridian where it forms the boundary line between Canada and the United States.

The joint party, referred to in our former report, who were sent out in March, 1907, to establish the initial point and to determine the direction of the meridian, completed that work, and had the meridian marked for a distance of two miles south of the Yukon River by the time the main survey party arrived in June.

The operations of the season were conducted as follows:—

One joint party carried on the accurate prolongation of the meridian, southward, and established governing points on the boundary.

Another party carried on a triangulation for the purpose of accurate measurement along the line, made a plane table survey on a scale of $\frac{1}{45,000}$, extending two miles on each side of the line, and cut out a vista through the woods where these occur. The plane topography was supplemented by a photo-topographical survey on either side of the boundary.

The mileage of the season of 1907 was: Establishment of points on the meridian, 130 miles, from just north of the Yukon River to the hill in the bend of Scottie River; triangulation, 61 miles, to the hill south of Sixty-mile River; cutting out the line and marking the sites for monuments, 52 miles; and the topographic surveys, 46 miles. No permanent monuments were set during this season, except the two at the Yukon River.

During the season of 1908, the distribution of the force was somewhat different from that of the previous season; one joint party produced the meridian as before, but the auxiliary work of triangulation, topography and line cutting was divided among three parties. A party to plant the permanent monuments was added and a levelling party to determine the elevation of a point on the meridian referred to sea level at Skagway, via Whitehorse.

The mileage of the season of 1908 was: Prolongation of the meridian and establishment of governing points, 75 miles from the terminal point of 1907, to a point about two miles south of White River; triangulation, 77 miles, to the hill in the bend of Scottie River, topography, 65 miles, to the hill south of the main branch of Ladue River; the line cutting, 45 miles, to the main branch of Ladue River; and levelling 159 miles. Permanent monuments were set at the points determined upon during the previous year, from Yukon River to Sixty-mile River. These monuments are of aluminum-bronze; one of them, on the north bank of Forty-mile River, is a large one, similar to those set at the crossing of Yukon River (six feet

high, one foot square at base), the others are of smaller pattern, like those used on the boundary of the coast strip of Alaska (30 inches high).

W. F. KING,
*H. B. M. Commissioner.*

O. H. TITTMANN,
*U. S. Commissioner.*

Ottawa, 29th December, 1908.

## THIRD JOINT REPORT OF THE COMMISSIONERS FOR THE DEMARCATION OF THE MERIDIAN OF THE 141st DEGREE OF WEST LONGITUDE.

The undersigned Commissioners, appointed in virtue of the First Article of the Convention between the United States and Great Britain, signed at Washington on the 21st April, 1906, have the honour to present their third report upon the progress of the demarcation of the 141st meridian where it forms the boundary line between the United States and Canada.

The operations of the season of 1909 were conducted as follows:—

One joint party carried on the accurate prolongation of the line, northward from the Yukon River to a ridge between two main tributaries of Nation or Takandik Creek, a distance of 40 miles and then returned to Eagle, Alaska, where a division of the party was made, part going up the Porcupine and Black Rivers for the purpose of determining the feasibility of using these routes for the transportation of supplies for the work of future seasons; the other part carrying on a scheme of triangulation for the computation of accurate measurements along the boundary, extending the triangulation 43 miles, Northward, from the Yukon River to stations in the same locality as the terminus of the line.

One sub-party continued the cutting of the boundary vista, twenty feet wide, along the projected meridian, for 40 miles and planted 12 of the small aluminum-bronze monuments. The precise levelling for the determination of a point on the meridian, referred to sea level at Skagway, Alaska, was continued. It was completed between White Pass Summit and Whitehorse, and from the terminus of last season's operations

for a distance of 164·5 miles along the Dawson wagon road to a point at Eureka Creek, about 52 miles from Dawson, October 8th, distant 398 miles from White Pass Summit.

For the work South of the Yukon River, the parties marched on foot 300 miles overland early in the season from Whitehorse, to a point on the meridian determined in 1908, 1½ miles south of the White River. From this point the line was jointly projected, southward, for ten miles to a minor ridge of Mt. Natazhat.

The stretch of boundary from the present terminus near Mt. Natazhat to Mt. St. Elias, a distance of 89 miles, of very inaccessible country, will not be taken up at the present time.

One party consisting of three sub-parties, cut the vista both ways from the White River for a total distance of 60 miles, set two large monuments, one on each bank of the White River, 4 of the smaller monuments between the White River and Natazhat Ridge and 15 between White River and Snag River.

Another party, sub-divided into 5 parties, completed a belt of topography on the scale of 1-45,000 from the main ridge of Mt. Natazhat to the hill south of the main fork of Ladue River—the most southerly point reached by the topographers in 1908.

Triangulation was carried from points near Mt. Natazhat, Northward, 83 miles to the range of hills in the bend of Scottie River, connecting with stations established the previous season. In addition to this, a scheme of triangulation was run up the White River to Skolai Pass—22 miles—for the purpose of determining the positions of the mountains in the neighbourhood of the boundary.

A recapitulation of the work done by the various parties in 1909 shows the following results:—

| | | |
|---|---|---|
| Line projection | 50 | miles. |
| Length of triangulation, net | 149 | " |
| Length of topographic belt | 112 | " |
| Vista cut | 100 | " |
| Number of permanent monuments planted | 33 | |
| Precise levels run | 241 | " |

The whole survey and demarcation between the point mentioned near Natazhat Ridge and the Yukon River, a distance of 215 miles, has now been completed with the exception of

the vista cutting for a distance of 57 miles, and the placing of the final monuments for about 101 miles.

W. F. KING,
*H. B. M. Commissioner.*

O. H. TITTMANN,
*U. S. Commissioner.*

WASHINGTON, December, 1909.

## FOURTH JOINT REPORT OF THE COMMISSIONERS FOR THE DEMARCATION OF THE MERIDIAN OF THE 141st DEGREE OF WEST LONGITUDE.

The undersigned Commissioners, appointed in virtue of the First Article of the Convention between the United States and Great Britain, signed at Washington on the 21st of April, 1906, have the honour to present their fourth annual report upon the progress of the demarcation of the 141st meridian where it forms the boundary line between the United States and Canada.

By reference to our third annual report, it will be seen that between Natazhat Ridge and the Yukon River, there remained 57 miles of vista cutting and 101 miles of monumenting to be done in order to complete the work between Mount Natazhat and the crossing of the boundary on the Yukon River.

During the past season this work was done, thus completing the boundary beeween Natazhat Ridge and the Yukon River. A second joint party traced the line from a point about 40 miles north of the Yukon River, the terminus of last year's work, to 10 miles north of the crossing on the Porcupine River, and the same stretch of country was covered by a belt of triangulation. The topography was taken up at the Yukon River and a belt was mapped for a distance of 144 miles northward from the initial point on the Yukon to latitude 67° 43′ N. The line cutting was begun at a point about 40 miles north of the Yukon and carried northward about 63 miles and the monumenting was completed for a distance of 45 miles, reaching latitude 65° 55′ N. The line of precise levels connecting the tidal sta-

tion at Skagway, by way of White Pass and Dawson, with a point on the 141st meridian has been completed.

A recapitulation of the work done by the various parties in 1910, shows the following results:

Line projection, 157 miles.
Length of triangulation net, 152 miles.
Length of topographic belt, 144 miles.
Distance monumented, 146 miles.
Number of monuments planted, 49.
Precise levels run, 130 miles.
Vista opened and stadia line, 118 miles.

W. F. KING,
*His Britannic Majesty's Commissioner.*

O. H. TITTMANN,
*United States Commissioner.*

December 28, 1910.

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## FIFTH JOINT REPORT OF THE COMMISSIONERS FOR THE DEMARCATION OF THE MERIDIAN OF THE 141ST DEGREE OF WEST LONGITUDE.

The undersigned Commissioners appointed by virtue of the First Article of the Convention between the United States and Great Britain, signed at Washington on the 21st of April, 1906, have the honour to present their Fifth Annual Report upon the progress of the demarcation of the 141st Meridian, where it forms the boundary line between the United States and Canada.

By reference to our Fourth Annual Report it will be seen that at the close of the survey season of 1910 the line tracing had been completed from near Mt. Natazhat in latitude 61° 34′, northward to latitude 67° 33′. During the season of 1911 the line tracing was carried a distance of about 124 miles to latitude 69° 20′ at which point the Arctic Ocean was plainly visible but a few miles distant.

The triangulation was carried in 1911 from latitude 67° 29′ to latitude 68° 54′, a distance of 100 miles, and the topography from 66° 43′ to 69° 04′, 164 miles.

Vista cutting and stadia measurements were carried on by two parties, one of which working northward from the point reached last year between the Yukon and Porcupine rivers, completed 115 miles, and the other working northward from the Porcupine River, completed 99 miles.

The final monumenting was completed on 25 miles of the line between the Yukon and Porcupine rivers, and on 75 miles north of the Porcupine River.

The epidemic of smallpox at Rampart House, which developed from one case on July 23rd to 71 cases on September 10th, delayed none of the parties in the field, as they had gotten well away from Rampart House before the disease appeared. Probably if it had not been for the smallpox some topography would have been done in the fall in the vicinity of the Porcupine above and below Rampart House. Instead, however, of waiting there for the steamer the parties were obliged to assemble at a point some 65 miles lower down the river.

It was not possible to use any Indians at Rampart House, as we intended, for handling the 300 tons of freight brought up the river during the summer by the Northern Navigation Company's boats, and by the survey launches. This freight was all handled by the half-dozen members of the survey party who happened to be at Rampart, every man turning in, even to chiefs and cooks, assisted at times by the launch crews. This prevented the officers in charge of the field work from going out north along the line during the latter part of July as they had hoped to do, to study the situation for next year. If it had not been for this delay at Rampart, it is probable that a much greater proportion of next year's supplies would have been sent at least part of the way up the Old Crow. As it is, about 30 tons only are any further than Rampart House. It is hoped, however, to have the launches in early next season and to have supplies at the line before the men and horses can get across country from Rampart House.

Respectfully submitted,

O. H. TITTMANN,
*United States Commissioner.*

W. F. KING,
*H. B. M. Commissioner.*

Washington,
December 29, 1911.

# SIXTH JOINT REPORT OF THE COMMISSIONERS FOR THE DEMARCATION OF THE MERIDIAN OF THE 141ST DEGREE OF WEST LONGITUDE.

The undersigned Commissioners, appointed by virtue of the First Article of the Convention between the United States and Great Britain, signed at Washington on the 21st of April, 1906, have the honour to present their Sixth Annual Report upon the progress of the demarcation of the 141st Meridian, where it forms the boundary line between the United States and Canada.

By reference to our Fifth Annual Report, it will be seen at the close of the survey season of 1911, the line tracing had been completed from near Mt. Natazhat, in latitude 61° 34′, northward to latitude 69° 20′. During the season of 1912 the line was carried northward 22 miles to the shore of the Arctic Ocean in latitude 69° 39′.

The triangulation was carried in 1912 from latitude 68° 54′ to the Arctic Ocean, a distance of 51 miles, and extended eastward along the shore 25 miles, to determine the relation of the terminal monument to the general shoreline.

Topography was carried northward along the meridian by one double topographic party from latitude 69° 04′ to latitude 69° 39′, a distance of 40½ miles, and then expanded westward along the coast to longitude 141° 30′ and eastward to longitude 140° 48′. This topography takes in the natural features nearest the boundary,—Icy Reef, Beaufort Bay, and Demarcation Point to the west, and Clarence Bay to the east.

Vista cutting and stadia measurements were carried on from latitude 68° 50′ 40″ to the ocean coast, a distance of 58 miles.

Another vista cutting and stadia party operated south of the Porcupine River a distance of 33 miles, connecting with the work completed in 1911.

The final monumenting, north of the Porcupine River, was completed to the ocean from latitude 68° 30′, where it terminated in 1911, over a distance of 80 miles, and, south of the Porcupine, over 78 miles.

In all 56 monuments were placed this year.

The monuments were all inspected and numbered from the Arctic Coast to the Yukon River, the most northerly monument being No. 1. From the Arctic Ocean to the Yukon River there are 115 monuments in a distance of 344 miles, or an average of one monument to 3 miles.

The demarcation of the boundary line has therefore been completed north of the Yukon River. Between the Yukon River and Mt. Natazhat there remains only the inspection and numbering of the monuments which can be completed by a relatively small party during the coming season.

South of Mt. Natazhat the boundary extends to the vicinity of Mt. St. Elias, a distance of 84 miles, in a very difficult mountainous region. A triangulation party and a topographic party were sent in to make surveys preliminary to the defining of the line in this region. Triangulation was carried from trigonometric stations which had been established in Scolai Pass in 1909, down Scolai Creek, across country to the Chitina River, and up Chitina River to within about 30 miles of the boundary, a distance altogether of about 90 miles. Plane table topography was carried across the boundary, from the mouth of Canyon Creek on the Chitina, up the valley of the latter, taking in the tops of ridges on either side, and photographs were taken from which a considerable additional area may be plotted.

Respectfully submitted,

W. F. KING,
*H. B. M. Commissioner.*

O. H. TITTMANN,
*U. S. Commissioner.*

WASHINGTON, December 12, 1912.

## 1908.

## [1] TREATY BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RESPECTING THE DEMARCATION OF THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND THE DOMINION OF CANADA.

SIGNED AT WASHINGTON, April 11 1908.

(*Ratifications exchanged at Washington, June 4, 1908.*)

His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, and the United

[1] From Treaty Series No. 18, 1908.

States of America, being desirous of providing for the more complete definition and demarcation of the international boundary between the United States and the Dominion of Canada, have for that purpose resolved to conclude a Treaty, and to that end have appointed as their Plenipotentiaries:

His Britannic Majesty, Right Honourable James Bryce, O.M., his Ambassador Extraordinary and Plenipotentiary at Washington; and

The President of the United States of America, Elihu Root, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

*The boundary through Passamaquoddy Bay.*

The High Contracting Parties agree that each shall appoint, without delay, an expert geographer or surveyor to serve as Commissioners for the purpose of more accurately defining and marking the international boundary line between the United States and the Dominion of Canada in the waters of Passamaquoddy Bay from the mouth of the St. Croix River to the Bay of Fundy, and that in defining and marking said boundary line the Commissioners shall adopt and follow, as closely as may be, the line surveyed and laid down by the Commissioners appointed under Article II of the Treaty of July 22, 1892, between Great Britain and the United States, so far as said Commissioners agreed upon the location of said line, namely:

(1.) From a point at the mouth of the St. Croix River defined by the ranges established by them by a connected series of six straight lines defined by ranges and cross ranges, to a point between Treat Island and Friar Head, likewise defined by ranges and cross ranges established by them; and also

(2.) From a point in Quoddy Roads, defined by the intersection of the range passing through the position of the Beacon of 1886 and Lubec Channel Light, with a range established by them on the west shore of Quoddy Roads along the course of this latter range, which is about 80° 35′ east of true south, into the Bay of Fundy.

In ascertaining the location of the above-described line, the Commissioners shall be controlled by the indications of the range marks and monuments established along its course by said former Commissioners and by the charts upon which the said Commisioners marked the line as tentatively agreed upon by them.

The remaining portion of the line, lying between the two above-described sections, and upon the location of which said former Commissioners did not agree, shall pass through the centre of the Lubec Narrows Channel between Campo Bello Island and the mainland, and, subject to the provisions hereinafter stated, it shall follow on either side of the said Narrows such courses as will connect with the parts of the line agreed upon as aforesaid, and such boundary shall consist of a series of straight lines defined by distances and courses; but inasmuch as differences have arisen in the past as to the location of the line with respect to Pope's Folly Island above Lubec Narrows and with respect to certain fishing grounds east of the dredged channel below Lubec Narrows, it is agreed that each of the High Contracting Parties shall present to the other within six months after the ratification of this Treaty a full printed statement of the evidence, with certified copies of original documents referred to therein which are in its possession, and the arguments upon which it bases its contentions, with a view to arriving at an adjustment of the location of this portion of the line in accordance with the true intent and meaning of the provisions relating thereto of the Treaties of 1783 and 1814 between Great Britain and the United States, and the award of the Commissioners appointed in that behalf under the Treaty of 1814; it being understood that any action by either or both Governments or their representatives authorized in that behalf or by the local governments on either side of the line, whether prior or subsequent to such Treaties and award, tending to aid in the interpretation thereof, shall be taken into consideration in determining their true intent and meaning. Such agreement, if reached, shall be reduced to writing in the form of a protocol and shall be communicated to the said Commissioners, who shall lay down and mark this portion of the boundary in accordance therewith and as herein provided.

In the event of a failure to agree within six months after the date of exchanging the printed statements aforesaid, the

question of which Government is entitled to jurisdiction over such island and fishing grounds under Treaty provisions, and proceedings thereunder, interpreted in accordance with their true intent and meaning as above provided, and by reason of any rights arising under the recognized principles of international law, shall be referred forthwith for decision upon the evidence and arguments submitted as aforesaid, with such additional statement of facts as may be appropriate, and an argument in reply on each side, to an arbitrator to be agreed upon by the two Governments, or, in case of a failure to agree, to be appointed by a third Power selected by the two Governments by common accord, or, if no agreement is thus arrived at, each Government shall select a different Power and the choice of the arbitrator shall be made in concert by the Powers thus selected. The decision of such arbitrator shall be final, and the line shall be laid down, and marked by the said Commissioners in accordance therewith and as herein provided.

The arbitrator shall be requested to deliver, together with his award, a statement of all the costs and expenses incurred by him in connection with the arbitration, which shall forthwith be repaid by the two Governments in equal moieties.

It is further agreed that if, under the foregoing provisions, the boundary to be located through the channel to the east of the dredged channel above mentioned, the latter shall be equally free and open for the passage of ships, vessels, and boats of both parties.

The entire boundary shall be marked by permanent range marks established on land and, if desirable in the opinion of Commissioners, by buoys in the water, so far as practicable, and by such other boundary marks and monuments and at such points as the Commissioners may determine to be necessary; but the said Commissioners shall proceed to define and mark and chart the portion of the line agreed upon by the former Commissioners under the Treaty of 1892 aforesaid without waiting for the final determination of the location of the remaining portion of the line.

The course of the said boundary line as defined and marked as aforesaid shall be laid down by said Commissioners on quadruplicate sets of accurate modern charts prepared or adopted by them for that purpose, which charts shall be certified and signed by the Commissioners, and two duplicate originals thereof shall be filed by them with each Government; and they shall also prepare in duplicate and file with each Government a joint

report or reports under their hands and seals describing in detail the course and location of the boundary line and the range marks and monuments and buoys marking it.

The line so defined and laid down shall be taken and deemed to be the international boundary from the Bay of Fundy to the mouth of the St. Croix River, as established by Treaty provisions and the proceedings thereunder.

## ARTICLE II.

*The boundary from the mouth to the source of the St. Croix River.*

Whereas Article II of the Treaty of 1783 between Great Britain and the United States provides that a line drawn along the middle of the River St. Croix from its mouth in the Bay of Fundy to its source shall be, between those points, the international boundary between the United States and the British possessions in North America, and the identity of the River St. Croix has been determined by the Commissioners appointed for that purpose under Article V of the Treaty of 1794 between Great Britain and the United States, and the location of the mouth and the source of said river has been duly established, and the course of said river has been described, surveyed, and charted by said Commissioners, as appears from their joint report dated the 25th day of October, 1798,* and from the chart or plan of said river prepared and filed by them with said report, but said line of boundary along the middle of said river was not laid down by them on said chart or plan, and was not marked or monumented by them along the course of said river; and whereas, pursuant to an additional article, dated March 15, 1798, supplementing the provisions of the Treaty of 1794 above referred to, a monument was erected by joint action of the two Governments marking the source of the River St. Croix, but said line of boundary through the River St. Croix has not otherwise been monumented and has never been laid down on charts by joint action of the two Governments; therefore, in order to complete and render thoroughly effective the demarcation of the boundary described and established as aforesaid,

It is agreed that each of the High Contracting Parties shall appoint, without delay, an expert geographer or surveyor as a Commissioner, and the Commissioners so appointed shall jointly lay down upon accurate modern charts, to be prepared or

* See Appendix, page 290.

adopted by them for that purpose, the line of boundary along the middle of the River St. Croix from its mouth to its source as defined and established by the existing Treaty provisions and the proceedings thereunder, above referred to, with the agreed understanding, however, that the line of boundary through said river shall be a water line throughout and shall follow the centre of the main channel or thalweg as naturally existing, except where such course would change, or disturb, or conflict with the national character of an island as already established by mutual recognition and acquiescence, in which case the line shall pass on the other side of any such island, following the middle of the channel nearest thereto, or, if the Commissioners find that the national character of any island is in dispute, the question of its nationality shall be submitted by them to their respective Governments, with a chart or map certified jointly by said Commissioners, showing the depth and volume of the water at its high and low stages between such island and the river banks on each side and indicating the course of the main channel of the river as it passes such island, together with a descriptive statement by said Commissioners showing the reasons for selecting such channel as the main channel; and in all such cases the High Contracting Parties agree that the location of the boundary with respect to each island in dispute shall be determined and settled in accordance with the following rules:

(1) The nationality of each island in dispute shall be determined by the predominance of the claims established on either side to such island, arising from the exercise of jurisdiction and sovereignty over it, including such exercise of jurisdiction by the local governments on either side of the line.

(2) The burden of proving the nationality of any such island shall be upon the party seeking to change the general course of the boundary as above prescribed so as to include such island on its side of the boundary.

(3) The selection by the Commissioners of the main channel passing such island shall not be conclusive upon the parties hereto and is subject to review, but the burden of proving the main channel to be other than the one selected shall be upon the party proposing the change.

The Government proposing such change in the prescribed course of the boundary shall, upon the submission of the question of the nationality of any island or islands by the Com-

missioners as aforesaid, promptly present to the other Government a printed statement, with certified copies of any original documents in its possession referred to therein, showing the grounds and arguments upon which its claim of jurisdiction and ownership with respect to such island rests. Unless an agreement is reached upon the presentation of such statement, the Government to which statement is presented shall within six months after its receipt present in reply a similar statement showing the grounds and arguments upon which the claims of the other Government are contested. If an agreement is reached between the two Governments, it shall be reduced to writing in the form of a protocol and shall be communicated to the said Commissioners, who shall proceed to lay down and mark the boundary so as to leave such island on the side of the boundary to which it is shown it belongs, in accordance with the determination of its nationality arrived at as aforesaid.

In the event of a failure by the two Governments to come to an agreement within six months after the presentation of the printed statements in reply hereinabove provided for, then the question of the nationality of the islands in dispute shall be referred forthwith for decision under the rules hereinabove set forth for the determination of that question, and under the recognized principles of international law not inconsistent therewith, and upon the evidence and arguments submitted as aforesaid, with such additional statement of facts as may be appropriate, and such further printed argument on each side as may be desired, to an arbitrator to be agreed upon by the two Governments, or, in case of a failure to agree, to be appointed by a third Power selected by the two Governments by common accord, or, if no agreement is thus arrived at, each Government shall select a different Power and the choice of the arbitrator shall be made in concert by the Powers thus selected. The decision of such arbitrator shall be final, and the line shall be laid down and marked by the said Commissioners in accordance therewith and as herein provided.

The arbitrator shall be requested to deliver, together with his award, a statement of all the costs and expenses incurred by him in connection with the arbitration, which shall forthwith be repaid by the two Governments in equal moieties.

It is further agreed that so far as practicable the said Commissioners shall establish boundary monuments and ranges and buoys marking the course and location of the said line,

and showing on which side of the boundary the several islands lying in said river belong, wherever in their judgment it is desirable that the boundary be so marked.

The charts upon which the boundary is marked as aforesaid shall be in quadruplicate, and shall be certified and signed by said Commissioners, and two duplicate originals thereof shall be filed by them with each Government, and it shall also be the duty of said Commissioners to prepare in duplicate, and file with each Government, a joint report under their hands and seals describing the line so marked by them and the monuments and range marks and buoys marking it.

The line so defined and laid down shall be taken and deemed to be the international boundary from the mouth to the source of the St. Croix River as established by Treaty provisions and the proceedings thereunder as aforesaid.

ARTICLE III.

*The boundary from the source of the St. Croix River to the St. Lawrence River.*

Whereas the remonumenting of the course of the boundary defined and laid down under the provisions of Articles I and VI of the Treaty of August 9, 1842, between Great Britain and the United States has already been undertaken without a formal Treaty agreement, but by the joint and concurrent action of the Governments of Great Britain and the United States, certain monuments between Canada and Vermont having been relocated in 1849, and the portion of said boundary extending between Hall's Stream and the St. Lawrence River in part having been remonumented in recent years and in part is now being remonumented under such action on both sides; and whereas the Commissioners appointed under Article VI of the Treaty of 1842 aforesaid were required to and did mark by monuments the land portion only of said line, and were not required to and did not mark by monuments the portions of the boundary extending along water courses, with the exception that the nationality of the several islands in the St. John River was indicated by monuments erected thereon and a series of monuments was placed by them along the edge of certain of the water courses to fix the general direction of the boundary, most of which monuments have since disappeared, but the entire boundary, including its course through the waterways as well as on land, was charted and marked on maps by said Commissioners under the provisions of Article VI

above referred to, and the nationality of the respective islands in the St. John River was determined by them, as appears from the joint report filed by said Commissioners dated June 28, 1847, and the series of maps signed by said Commissioners and filed with their joint report; and whereas the portion of the line through said waterways has not since been monumented or marked along its course by joint action of the two Governments, and the monuments placed by said Commissioners along the land portion of said boundary require repairing and renewing where such work has not already been done in recent years, and additional or supplementary intermediate monuments at convenient points are required under modern conditions: therefore, in order to carry on and complete the work already undertaken as aforesaid, and to re-establish the location of said boundary and render thoroughly effective the demarcation of the said boundary as existent and established,

It is agreed that each of the High Contracting Parties shall appoint, without delay, an expert geographer or surveyor as a Commissioner, and under the joint direction of such Commissioners the lost or damaged boundary monuments shall be relocated and repaired, and additional monuments and boundary marks shall be established wherever necessary in the judgment of the Commissioners to meet the requirements of modern conditions along the course of the land portion of said boundary, and where the said boundary runs through waterways it shall be marked along its course, so far as practicable, by buoys and monuments in the water and by permanent ranges established on the land, and in such other way and at such points as in the judgment of the Commissioners it is desirable that the boundary be so marked; and it is further agreed that the course of the entire boundary, as described in Article I of the Treaty of 1842 and as laid down as aforesaid under Article VI of that Treaty, shall be marked by said Commissioners upon quadruplicate sets of accurate modern charts prepared or adopted by them for that purpose, and that said charts so marked shall be certified and signed by them and two duplicate originals thereof shall be filed with each Government, and said Commissioners shall also prepare in duplicate and file with each Government a joint report or reports describing in detail the course of the boundary so marked by them, and the character and location of the several monuments and boundary marks and ranges marking it.

The line so defined and laid down shall be taken and deemed to be the international boundary as defined and laid down under Articles I and VI of the said Treaty of 1842.

## Article IV.

*The boundary from its intersection with the St. Lawrence River to the mouth of Pigeon River.*

The High Contracting Parties agree that the existing International Waterways Commission,* constituted by concurrent action of the United States and the Dominion of Canada and composed of three Commissioners on the part of the United States and three Commissioners on the part of the Dominion of Canada, is hereby authorized and empowered to ascertain and re-establish accurately the location of the international boundary line beginning at the point of its intersection with the St. Lawrence River near the forty-fifth parallel of north latitude, as determined under Articles I and VI of the Treaty of August 9, 1842, between Great Britain and the United States, thence through the Great Lakes and communicating waterways to the mouth of Pigeon River, at the western shore of Lake Superior, in accordance with the description of such line in Article II of the Treaty of Peace between Great Britain and the United States, dated September 3, 1783, and of a portion of such line in Article II of the Treaty of August 9, 1842, aforesaid, and as described in the joint report dated June 18, 1822, of the Commissioners appointed under Article VI of the Treaty of December 24, 1814, between Great Britain and the United States, with respect to a portion of said line and as marked on charts prepared by them and filed with said report, and with respect to the remaining portion of said line as marked on the charts adopted as Treaty charts of the boundary under the provisions of Article II of the Treaty of 1842, above mentioned, with such deviation from said line, however, as may be required on account of the cession by Great Britain to the United States of the portion of Horse Shoe Reef in the Niagara River necessary for the light-house erected there by the United States in accordance with the terms of the protocol of a conference held at the British Foreign Office December 9, 1850, between the representatives of the two Governments and signed by them agreeing upon such cession; and it is agreed that wherever the

* The International Waterways Commission was constituted as described in this Article—its organization being completed in 1905—"to investigate and report on the conditions and uses of the waters adjacent to the boundary lines between the United States and Canada." It was largely instrumental in promoting the conclusion of the Boundary Waters Treaty of 1909; and its original functions became merged in those of the International Joint Commission created under Article 7 of that Treaty (see page 189.) It may be regarded as now *functus officio* save in respect of the duty of boundary demarcation entrusted to it under this article.

boundary is shown on said charts by a curved line along the water the Commissioners are authorized in their discretion to adopt, in place of such curved line, a series of connecting straight lines defined by distances and courses and following generally the course of such curved line, but conforming strictly to the description of the boundary in the existing Treaty provisions, and the geographical coordinates of the turning points of such line shall be stated by said Commissioners so as to conform to the system of latitudes and longitudes of the charts mentioned below, and the said Commissioners shall so far as practicable mark the course of the entire boundary line located and defined as aforesaid, by buoys and monuments in the waterways and by permanent range marks established on the adjacent shores or islands, and by such other boundary marks and at such points as in the judgment of the Commissioners it is desirable that the boundary should be so marked; and the line of the boundary defined and located as aforesaid shall be laid down by said Commissioners on accurate modern charts prepared or adopted by them for that purpose, in quadruplicate sets, certified and signed by the Commissioners, two duplicate originals of which shall be filed by them with each Government; and the Commissioners shall also prepare in duplicate and file with each Government a joint report or reports describing in detail the course of said line and the range marks and buoys marking it, and the character and location of each boundary mark. The majority of the Commissioners shall have power to render a decision.

The line so defined and laid down shall be taken and deemed to be the international boundary as defined and established by Treaty provisions and the proceedings thereunder as aforesaid from its intersection with the St. Lawrence River to the mouth of Pigeon River.

### Article V

*The boundary from the mouth of Pigeon River to the northwesternmost point of the Lake of the Woods.*

In order to complete and perfect the demarcation of the international boundary line between the United States and the Dominion of Canada from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of the Lake of the Woods, which boundary is defined in Article II of the Treaty of Peace between Great Britain and the United

States, dated September 3, 1783, and in Article II of the Treaty of August 9, 1842, between Great Britain and the United States, wherein is defined also the location of the said northwesternmost point of the Lake of the Woods, and the greater part of the said boundary is marked on charts covering that section of the boundary adopted as Treaty charts of the boundary under the provisions of Article II of the Treaty of 1842 aforesaid, but has never been actually located or monumented along its course by joint action of the two Governments, and no joint survey of its course has been made since the survey under the direction of the Commissioners appointed under Article VII of the Treaty of December 24, 1814, between Great Britain and the United States, under whose direction the charts above-mentioned were prepared.

It is agreed that each of the High Contracting Parties shall appoint, without delay, an expert geographer or surveyor as Commissioners, who shall re-establish and fix the actual location of said entire boundary described and charted as aforesaid, and designate the side of the boundary upon which each island adjacent to the boundary belongs, it being mutually understood that the boundary, so far as practicable, shall be a water line and shall not intersect islands lying along its course, and the Commissioners shall so far as practicable mark such boundary along its course by monuments and buoys and range marks, and such other boundary marks as the Commissioners may determine, and at such points as in their judgment it is desirable that the boundary shall be so marked; and it is further agreed that the course of the entire boundary as described and laid down as aforesaid and as monumented by said Commissioners shall be marked by them upon quadruplicate sets of accurate modern charts prepared or adopted by them for that purpose, and that said charts so marked shall be certified and signed by them and two duplicate originals thereof shall be filed with each Government, and said Commissioners shall also prepare in duplicate and file with each Government a joint report or reports describing in detail the course of the boundary so marked by them and the character and location of the several monuments and boundary marks and ranges marking it.

The line so defined and laid down shall be taken and deemed to be the international boundary as defined and established under the aforesaid Treaties from the mouth of Pigeon River to the northwesternmost point of the Lake of the Woods.

ARTICLE VI.

*The boundary from the northwesternmost point of the lake of the Woods to the summit of the Rocky Mountains.*

In order to complete and render thoroughly effective the demarcation of the international boundary between the United States and the Dominion of Canada from the northwesternmost point of the Lake of the Woods to the summit of the Rocky Mountains, which boundary, according to existing Treaties, runs due south from said northwesternmost point to the forty-ninth parallel of north latitude and thence along that parallel to the summit of the Rocky Mountains, and has been surveyed and charted and monumented as appears from the series of twenty-four sectional maps covering this portion of the boundary prepared and filed by the Joint Commission appointed for that purpose by joint action of the two Governments in 1872;

It is agreed that each of the High Contracting Parties shall appoint, without delay, an expert geographer or surveyor as a Commissioner, and under the joint direction of such Commissioners lost or damaged monuments along the course of said boundary shall be relocated and repaired and additional monuments and boundary marks shall be established wherever necessary, in the judgment of the Commissioners, to meet the requirements of modern conditions and to render more effective the demarcation of the existent boundary established under the Treaty provisions and proceedings thereunder as aforesaid; and it is further agreed that in carrying out these provisions the said Commissioners shall observe the agreement stated in the protocol of the final meeting, dated May 29, 1876, of the Joint Commission aforesaid, which is as follows:

"2. In the intervals between the monuments along the parallel of latitude, it is agreed that the line has the curvature of a parallel of 49° north latitude; and that such characteristic shall determine all questions that may hereafter arise with reference to the position of the boundary at any point between neighbouring monuments.

"3. It is further agreed that in the event of any of the said three hundred and eighty-eight monuments or marks being obliterated beyond the power of recognition, the lost site or sites shall be recovered by their recorded position relatively to the next neighbouring unobliterated mark or marks."

It is further agreed that the said Commissioners shall mark upon quadruplicate sets of accurate modern charts prepared or adopted by them for that purpose the entire course of said boundary and the location of the boundary monuments and marks established along the course of said boundary, and two duplicate originals thereof shall be filed with each Government, and said Commissioners shall also prepare in duplicate and file with each Government a joint report describing in detail the work done by them in replacing and repairing lost or damaged monuments and the character and location of the several monuments and boundary marks placed by them along said boundary.

The line so laid down and defined shall be taken and deemed to be the international boundary as defined and established by Treaty provisions and the proceedings thereunder as aforesaid from the northwernmost point of the Lake of the Woods to the summit of the Rocky Mountains.

## Article VII.

*The boundary from the summit of the Rocky Mountains to the Gulf of Georgia.*

Whereas, by concurrent action of the Government of Great Britain and the Government of the United States in 1902 and 1903, Commissioners were designated to act jointly for the purpose of renewing lost or damaged monuments and placing additional monuments where such were needed throughout the course of the boundary along the forty-ninth parallel of north latitude, from the summit of the Rocky Mountains westward to the eastern shore of the Gulf of Georgia, as defined in Article 1 of the Treaty of June 15, 1846, between Great Britain and the United States and as marked by monuments along its course and laid down on a series of charts, seven in number, by a Joint Commission organized in 1858 for that purpose and composed of two Commissioners appointed one by each Government, which charts, duly certified and authenticated in duplicate by said Commissioners, were approved and adopted by the two Governments, as appears from the declaration in writing to that effect signed on February 24, 1870, at Washington by duly authorized Plenipotentiaries of the respective Governments, and it appearing that the remonumenting of this line

by the Commissioners first above referred to is now approaching completion;

It is hereby agreed by the High Contracting Parties that when such work is completed the entire course of said boundary showing the location of the boundary monuments and marks established along the course of the boundary, shall be marked upon quadruplicate sets of accurate modern charts prepared or adopted for that purpose, and the said Commissioners, or their successors are hereby authorized and required to so mark the line and designate the monuments on such charts, two duplicate originals of which shall be filed with each Government and the said Commissioners, or their successors shall also prepare in duplicate and file with each Government a joint report describing in detail the work done by them in replacing and repairing lost or damaged monuments and the character and location of the several monuments and boundary marks placed by them along said boundary.

The line so laid down and defined shall be taken and deemed to be the international boundary as defined and established by Treaty provisions and the proceedings thereunder as aforesaid, from the summit of the Rocky Mountains to the eastern shore of the Gulf of Georgia.

## Article VIII.

*The boundary from the forty-ninth parallel to the Pacific Ocean.*

The High Contracting Parties agree that each shall appoint, without delay, an expert geographer or surveyor to serve as Commissioners for the purpose of dilineating upon accurate modern charts, prepared or adopted by them for that purpose, the international boundary line between the United States and the Dominion of Canada from the forty-ninth parallel of north latitude along the middle of the channel which separates Vancouver's Island from the mainland and the middle of the Haro Channel and of Fuca's Straits to the Pacific Ocean, as defined in Article I of the Treaty of June 15, 1846, between Great Britain and the United States, and as determined by the award made on October 21, 1872, by the Emperor of Germany as arbitrator pursuant to the provisions of Articles XXXIV-XLII of the Treaty of May 8, 1871, between the United States and Great Britain and as traced out and marked on a quadruplicate set of charts prepared for that purpose and agreed

upon and signed by the duly authorized representatives of the respective Governments, as appears from the protocol of a conference at Washington on March 10, 1873, between such representatives which was signed by them on that date, and as defined by them in a written definition of said boundary signed by them and referred to in and attached to said protocol, and it is agreed that the said Commissioners shall adopt in place of the curved line passing between Saturna Island and Patos Island as shown on said charts a straight line running approximately north and south through a point midway between the eastern point of Saturna Island and the western point of Patos Island and intersecting the prolongations of the two straight lines of the boundary now joined by a curved line. The entire line thus laid down shall consist of a series of connecting straight lines defined by distances and courses; and the Commissioners are authorized to select and establish such reference marks on shore as they may deem necessary for the proper definition and location on the water of the boundary aforesaid. A quadruplicate set of such charts showing the lines laid down and marked by them and the location of the several marks or monuments selected or established by them along its course, shall be signed by them and two duplicate originals thereof shall be filed by them with each Government, and the Commissioners shall also prepare in duplicate and file with each Government a joint report, or reports, describing in detail the course of said line and the boundary marks and their location along its course.

The line so defined and laid down shall be taken and deemed to be the international boundary, as defined and established by Treaty provisions and the proceedings thereunder as aforesaid. from the forty-ninth parallel of north latitude along the middle of the channel which separates Vancouver's Island from the mainland and the middle of Haro Channel and of Fuca's Straits to the Pacific Ocean.

## Article IX.

### *General Provisions.*

The Commissioners appointed under the provisions of this Treaty shall proceed without delay to perform the duties assigned to them, but each Commissioner shall, before entering

upon his duties, make oath in writing that he will impartially and faithfully perform his duties as such Commissioner.

In case a vacancy occurs in any of the Commissions constituted by this Treaty, by reason of the death, resignation, or other disability of a Commissioner, before the work of such Commission is completed, the vacancy so caused shall be filled forthwith by the appointment of another Commissioner by the party on whose side the vacancy occurs, and the Commissioner so appointed shall have the same powers and be subject to the same duties and obligations as the Commissioner originally appointed.

If a dispute or difference should arise about the location or demarcation of any portion of the boundary covered by the provisions of this Treaty and an agreement with respect thereto is not reached by the Commissioners charged herein with locating and marking such portion of the line, they shall make a report in writing jointly to both Governments, or severally each to his own Government, setting out fully the questions in dispute and the differences between them, but such Commissioners shall, nevertheless, proceed to carry on and complete as far as possible the work herein assigned to them with respect to the remaining portions of the line.

In case of such a disagreement between the Commissioners, the two Governments shall endeavour to agree upon an adjustment of the questions in dispute, and if an agreement is reached between the two Governments it shall be reduced to writing in the form of a protocol, and shall be communicated to the said Commissioners, who shall proceed to lay down and mark the boundary in accordance therewith, and as herein provided, but without prejudice to the special provisions contained in Articles I and II regarding arbitration.

It is understood that under the foregoing articles the same persons will be appointed to carry out the delimitation of boundaries in the several sections aforesaid, other than the section covered by Article IV, unless either of the Contracting Powers finds it expedient for some reason which it may think sufficient to appoint some other person to be Commissioner for any one of the above-mentioned sections.

Each Government shall pay the expenses of its own Commissioners and their assistants, and the cost of marking and monumenting the boundary shall be paid in equal moieties by the two Governments.

ARTICLE X

This Treaty shall be ratified by His Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 11th day of April in the year of our Lord one thousand nine hundred and eight.

(L.S.) JAMES BRYCE.
(L.S.) ELIHU ROOT.

## 1908.

## [1] CONVENTION BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RESPECTING THE PROTECTION, PRESERVATION, AND PROPAGATION OF FOOD FISHES IN THE WATERS CONTIGUOUS TO THE UNITED STATES AND THE DOMINION OF CANADA.

SIGNED AT WASHINGTON, APRIL 11, 1908.

(*Ratifications exchanged at Washington, June 4, 1908.*)

His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, and Emperor of India, and the United States of America, equally recognizing the desirability of uniform and effective measures for the protection, preservation, and propagation of the food fishes in the waters contiguous to the United States and the Dominion of Canada, have resolved to conclude a Convention for these purposes, and have named as their Plenipotentiaries:

His Britannic Majesty, the Right Honourable James Bryce, O.M., His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington; and

The President of the United States of America, Elihu Root, Secretary of State of the United States:

[1] From Treaty Series No. 17, 1908.

Who, having exchanged their full powers found in due form, have agreed to and signed the following articles:

ARTICLE 1.

The times, seasons, and methods of fishing in the waters contiguous to the United States and Canada, as specified in Article 4 of this Convention, and the nets, engines, gear, apparatus, and appliances which may be used therein, shall be fixed and determined by uniform and common international regulations, restrictions, and provisions; and to that end the High Contracting Parties agree to appoint, within three months after this Convention is proclaimed, a Commission to be known as the International Fisheries Commission, consisting of one person named by each Government.

ARTICLE 2.

It shall be the duty of this International Fisheries Commission, within six months after being named, to prepare a system of uniform and common International Regulations for the protection and preservation of the food fishes in each of the waters prescribed in Article 4 of this Convention, which Regulations shall embrace close seasons, limitations as to the character, size, and manner of use of nets, engines, gear, apparatus and other appliances; a uniform system of registry by each Government in waters where required for the more convenient regulation of commercial fishing by its own citizens or subjects within its own territorial waters or any part of such waters; an arrangement for concurrent measures for the propagation of fish; and such other provisions and measures as the Commission shall deem necessary.

ARTICLE 3.

The two Governments engage to put into operation and to enforce by legislation and executive action, with as little delay as possible, the Regulations, restrictions, and provisions with appropriate penalties for all breaches thereof; and the date when they shall be put into operation shall be fixed by the concurrent proclamations of the President of the United States and the Governor-General of the Dominion of Canada in Council.

And it is further agreed that jurisdiction shall be exercised by either Government, as well over citizens or subjects of either party apprehended for violation of the Regulations in any of its own waters to which said Regulations apply, as over its own citizens or subjects found within its own jurisdiction who shall have violated said Regulations within the waters of the other party.

ARTICLE 4.

It is agreed that the waters within which the aforementioned Regulations are to be applied shall be as follows: (1) The territorial waters of Passamaquoddy Bay; (2) the St. John and St. Croix Rivers; (3) Lake Memphremagog; (4) Lake Champlain; (5) the St. Lawrence River, where the said River constitutes the International Boundary; (6) Lake Ontario; (7) the Niagara River; (8) Lake Erie; (9) the waters connecting Lake Erie and Lake Huron, including Lake St. Clair; (10) Lake Huron, excluding Georgian Bay but including North Channel; (11) St. Mary's River and Lake Superior; (12) Rainy River and Rainy Lake; (13) Lake of the Woods; (14) the Strait of San Juan de Fuca, those parts of Washington Sound, the Gulf of Georgia and Puget Sound lying between the parallels of 48° 10′ and 49° 20′; (15) and such other contiguous waters as may be recommended by the International Fisheries Commission and approved by the two Governments. It is agreed on the part of Great Britain that the Canadian Government will protect by adequate regulations the food fishes frequenting the Fraser River.

The two Governments engage to have prepared as soon as practicable charts of the waters described in this Article, with the International Boundary Line indicated thereon; and to establish such additional boundary monuments, buoys, and marks as may be recommended by the Commission.

ARTICLE 5.

The International Fisheries Commission shall continue in existence so long as this Convention shall be in force, and each Government shall have the power to fill, and shall fill, from time to time, any vacancy which may occur in its representation on the Commission. Each Government shall pay its own Commissioner, and any joint expenses shall be paid by the two Governments in equal moieties.

ARTICLE 6.

The Regulations, restrictions, and provisions provided for in this Convention shall remain in force for a period of four years from the date of their executive promulgation, and thereafter until one year from the date when either the Government of Great Britain or of the United States shall give notice to the other of its desire for their revision; and immediately upon such notice being given the Commission shall proceed to make a revision thereof, which Revised Regulations, if adopted and promulgated by the President of the United States and the Governor-General of Canada in Council, shall remain in force for another period of four years and thereafter until one year from the date when a further notice of revision is given as above provided in this Article. It shall, however, be in the power of the two Governments, by joint or concurrent action upon the recommendation of the Commission, to make modifications at any time in the Regulations.

ARTICLE 7.

The present Convention shall be duly ratified by His Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof, the respective Plenipotentiaries have signed the present Convention in duplicate, and have thereunto affixed their seals.

Done at Washington the 11th day of April, in the year of our Lord one thousand nine hundred and eight.

(L.S.) JAMES BRYCE.
(L.S.) ELIHU ROOT.

## 1908.

# [1] TREATY BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA, PROVIDING (1) FOR THE CONVEYANCE OF PERSONS IN CUSTODY FOR TRIAL EITHER IN THE DOMINION OF CANADA OR THE UNITED STATES THROUGH THE TERRITORY OF THE OTHER; AND (2) FOR RECIPROCAL RIGHTS IN WRECKING AND SALVAGE IN THE WATERS CONTIGUOUS TO THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND THE UNITED STATES.

SIGNED AT WASHINGTON, MAY 18, 1908.

(*Ratifications exchanged at Washington, June 30, 1908.*)

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; and the United States of America, being desirous to make provision for the conveyance of persons in lawful custody for trial or punishment either in the Dominion of Canada or the United States through the territory of the other, and for reciprocal rights in wrecking and salvage in the waters contiguous to the boundary between the Dominion of Canada and the United States, have for that purpose resolved to conclude a treaty, and to that end have appointed as their Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Right Honourable James Bryce, O.M., His Ambassador Extraordinary and Plenipotentiary at Washington; and the President of the United States of America, Robert Bacon, Acting Secretary of State of the United States;

Who, after communicating to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

### ARTICLE 1.

*Conveyance of Prisoners.*

Any officer of the Dominion of Canada or of any province or territory thereof, having in his custody without the borders

[1] From Treaty Series No 22, 1908.

of the United States of America, by virtue of any warrant or any other lawful process issued by authority of the law of the Dominion or of any province or territory thereof, any person charged with or convicted of any of the criminal offences specified below, committed in Canada, may, in executing such warrant or process, convey such person through any part of the United States to a place in Canada, if such warrant or process is endorsed, or backed, by a judge, magistrate or justice of the peace in the United States, or if the authority of the Secretary of State of the United States for such conveyance is first obtained.

During such conveyance of such person through the United States, such officer may keep such person in his custody, and in case of escape may recapture him.

Any officer of the United States of America or of any state or territory thereof,having in his custody without the borders of Canada, by virtue of any warrant or any other lawful process isued by authority of the United States or of any state or teritory thereof, any person charged with or convicted of any of the criminal offences specified below, committed within the jurisdiction of the United States or of any state or territory thereof, may, in executing such warrant or process, convey such person through any part of Canada to a place in the United States, if such warrant or process is endorsed, or backed, by a judge, magistrate or justice of the peace in Canada, or if the authority of the Minister of Justice of Canada for such conveyance is first obtained.

During such conveyance of such person through Canada, such officer may keep such person in his custody, and in case of escape may recapture him.

The foregoing provision shall apply only to persons charged with or convicted of offences of the following descriptions:

1. Offences for which extradition is at the time authorized by a treaty in force between Great Britain and the United States.

2. Assault with intent to commit grievous bodily harm.

3. Assault upon an officer of the law in the execution of his duty.

The Dominion of Canada and the United States may by concurrent legislation make further or other regulations for authenticating the warrant or process under which the person in custody is to be conveyed, as before provided.

ARTICLE 2.

*Wrecking and Salvage.*

The High Contracting Parties agree that vessels and wrecking appliances, either from the Dominion of Canada or from the United States, may salve any property wrecked and may render aid and assistance to any vessels wrecked, disabled or in distress in the waters or on the shores of the other country in that portion of the St. Lawrence River through which the International Boundary line extends, and, in Lake Ontario, Lake Erie, Lake St. Clair, Lake Huron, and Lake Superior, and in the Rivers Niagara, Detroit, St. Clair, and Ste. Marie, and the Canals at Sault Ste. Marie, and on the shores and in the waters of the other country along the Atlantic and Pacific Coasts within a distance of thirty miles from the International Boundary on such Coasts.

It is futher agreed that such reciprocal wrecking and salvage privileges shall include all necessary towing incident thereto, and that nothing in the Customs, Coasting or other laws or regulations of either country shall restrict in any manner the salving operations of such vessels or wrecking appliances.

Vessels from either country employed in salving in the waters of the other shall as soon as practicable afterwards make full report at the nearest custom house of the country in whose waters such salving takes place.

ARTICLE 3.

This Treaty shall remain in force for ten years after its date and thereafter until terminated by twelve months' written notice given by either High Contracting Party to the other.

ARTICLE 4.

This Treaty shall be ratified by His Britannic Majesty, and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged in Washington as soon as possible.

In faith whereof the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the eighteenth day of May, in the year of our Lord one thousand nine hundred and eight.

[L.S.] JAMES BRYCE.
[L.S.] ROBERT BACON.

## 1909.

# TREATY BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RELATING TO BOUNDARY WATERS AND QUESTIONS ARISING ALONG THE BOUNDARY BETWEEN CANADA AND THE UNITED STATES.

SIGNED AT WASHINGTON, JANUARY 11, 1909.

(*Ratifications exchanged at Washington, May 5, 1910.*)

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the United States of America, being equally desirous to prevent disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise, have resolved to conclude a Treaty in furtherance of these ends, and for that purpose have appointed as their respective Plenipotentiaries.

His Britannic Majesty, the Right Honourable James Bryce, O.M., his Ambassador Extraordinary and Plenipotentiary at Washington; and

The President of the United States of America, Elihu Root, Secretary of State of the United States;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

### PRELIMINARY ARTICLE.

For the purposes of this Treaty boundary waters are defined as the waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms, and inlets thereof, but not including tributary waters which in their natural channels would flow into such

[1] From Treaty Series No. 23, 1910.

lakes, rivers, and waterways, or waters flowing from such lakes, rivers, and waterways, or the waters of rivers flowing across the boundary.

ARTICLE 1.

The High Contracting Parties agree that the navigation of all navigable boundary waters shall for ever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation, and applying equally and without discrimination to the inhabitants, ships, vessels, and boats of both countries.

It is further agreed that so long as this Treaty shall remain in force, this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters, and now existing or which may hereafter be constructed on either side of the line. Either of the High Contracting Parties may adopt rules and regulations governing the use of such canals within its own territory, and may charge tolls for the use thereof, but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the High Contracting Parties and the ships, vessels, and boats of both of the High Contracting Parties, and they shall be placed on terms of equality in the use thereof.

ARTICLE 2.

Each of the High Contracting Parties reserves to itself or to the several State Governments on the one side and the Dominion or Provincial Governments on the other, as the case may be, subject to any treaty provisions now existing with respect thereto, the exclusive jurisdiction and control over the use and diversion, whether temporary or permanent, of all waters on its own side of the line which in their natural channels would flow across the boundary or into boundary waters; but it is agreed that any interference with or diversion from their natural channel of such waters on either side of the boundary, resulting in any injury on the other side of the boundary, shall give rise to the same rights and entitle the injured parties to the same legal remedies as if such injury

took place in the country where such diversion or interference occurs; but this provision shall not apply to cases already existing or to cases expressly covered by special agreement between the parties hereto.

It is understood, however, that neither of the High Contracting Parties intends by the foregoing provision to surrender any right which it may have to object to any interference with or diversions of waters on the other side of the boundary the effect of which would be productive of material injury to the navigation interests on its own side of the boundary.

ARTICLE 3.

It is agreed that, in addition to the uses, obstructions, and diversions heretofore permitted or hereafter provided for by special agreement between the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the International Joint Commission.

The foregoing provisions are not intended to limit or interfere with the existing rights of the Government of the United States on the one side and the Government of the Dominion of Canada on the other, to undertake and carry on governmental works in boundary waters for the deepening of channels, the construction of breakwaters, the improvement of harbours, and other governmental works for the benefit of commerce and navigation, provided that such works are wholly on its own side of the line and do not materially affect the level or flow of the boundary waters on the other, nor are such provisions intended to interfere with the ordinary use of such waters for domestic and sanitary purposes.

ARTICLE 4.

The High Contracting Parties agree that, except in cases provided for by special agreement between them, they will not permit the construction or maintenance on their respective

sides of the boundary of any remedial or protective works or any dams or other obstructions in waters flowing from boundary waters or in waters at a lower level than the boundary in rivers flowing across the boundary, the effect of which is to raise the natural level of waters on the other side of the boundary unless the construction or maintenance thereof is approved by the aforesaid International Joint Commission.

It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.

ARTICLE 5.

The High Contracting Parties agree that it is expedient to limit the diversion of waters from the Niagara River so that the level of Lake Erie and the flow of the stream shall not be appreciably affected. It is the desire of both Parties to accomplish this object with the least possible injury to investments which have already been made in the construction of power plants on the United States' side of the river under grants of authority from the State of New York, and on the Canadian side of the river under licenses authorized by the Dominion of Canada and the Province of Ontario.

So long as this Treaty shall remain in force, no diversion of the waters of the Niagara River above the Falls from the natural course and stream thereof shall be permitted except for the purposes and to the extent hereinafter provided.

The United States may authorize and permit the diversion within the State of New York of the waters of said river above the Falls of Niagara, for power purposes, not exceeding in the aggregate a daily diversion at the rate of twenty thousand cubic feet of water per second.

The United Kingdom, by the Dominion of Canada, or the Province of Ontario, may authorize and permit the diversion within the Province of Ontario of the waters of said river above the Falls of Niagara for power purposes, not exceeding in the aggregate a daily diversion at the rate of thirty-six thousand cubic feet of water per second.

The prohibitions of this article shall not apply to the diversion of water for sanitary or domestic purposes, or for the service of canals for the purposes of navigation.

ARTICLE 6.

The High Contracting Parties agree that the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the waters thereof shall be apportioned equally between the two countries, but in making such equal apportionment more than half may be taken from one river and less than half from the other by either country so as to afford a more beneficial use to each. It is further agreed that in the division of such waters during the irrigation season, between the 1st of April and 31st of October inclusive, annually, the United States is entitled to a prior appropriation of 500 cubic feet per second of the waters of the Milk River, or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cubic feet per second of the flow of St. Mary River, or so much of such amount as constitutes three-fourths of its natural flow.

The channel of the Milk River in Canada may be used at the convenience of the United States for the conveyance, while passing through Canadian territory, of waters diverted from the St. Mary River. The provisions of Article 2 of this Treaty shall apply to any injury resulting to property in Canada from the conveyance of such waters through the Milk River.

The measurement and apportionment of the water to be used by each country shall from time to time be made jointly by the properly-constituted reclamation officers of the United States and the properly-constituted irrigation officers of His Majesty under the direction of the International Joint Commission.

ARTICLE 7.

The High Contracting Parties agree to establish and maintain an International Joint Commission of the United States and Canada composed of six commissioners, three on the part of the United States appointed by the President thereof, and three on the part of the United Kingdom appointed by His Majesty on the recommendation of the Governor in Council of the Dominion of Canada.

ARTICLE 8.

This International Joint Commission shall have jurisdiction over and shall pass upon all cases involving the use or obstruction or diversion of the waters with respect to which under

Articles 3 and 4 of this Treaty the approval of this Commission is required, and in passing upon such cases the Commission shall be governed by the following rules and principles which are adopted by the High Contracting Parties for this purpose:

The High Contracting Parties shall have, each on its own side of the boundary, equal and similar rights in the use of the waters hereinbefore defined as boundary waters.

The following order of precedence shall be observed among the various uses enumerated hereinafter for these waters, and no use shall be permitted which tends materially to conflict with or restrain any other use which is given preference over it in this order of precedence:

(1.) Uses for domestic and sanitary purposes;
(2.) Uses for navigation, including the service of canals for the purposes of navigation;
(3.) Uses for power and for irrigation purposes.

The foregoing provisions shall not apply to or disturb any existing uses of boundary waters on either side of the boundary.

The requirement for an equal division may in the discretion of the Commission be suspended in cases of temporary diversions along boundary waters at points where such equal division can not be made advantageously onaccount of local conditions, and where such diversion does not diminish elsewhere the amount available for use on the other side.

The Commission in its discretion may make its approval in any case conditional upon the construction of remedial or protective works to compensate so far as possible for the particular use or diversion proposed, and in such cases may require that suitable and adequate provision, approved by the Commission, be made for the protection and indemnity against injury of any interests on either side of the boundary.

In cases involving the elevation of the natural level of waters on either side of the line as a result of the construction or maintenance on the other side of remedial or protective works or dams or other obstructions in boundary waters or in waters flowing therefrom or in waters below the boundary in rivers flowing across the boundary, the Commission shall require, as a condition of its approval thereof, that suitable and adequate provision, approved by it, be made for the protection and indemnity of all interests on the other side of the line which may be injured thereby.

The majority of the Commissioners shall have power to render a decision. In case the Commission is evenly divided upon any question or matter presented to it for decision, separate reports shall be made by the Commissioners on each side to their own Government. The High Contracting Parties shall thereupon endeavour to agree upon an adjustment of the question or matter of difference, and if an agreement is reached between them, it shall be reduced to writing in the form of a protocol, and shall be communicated to the Commissioners, who shall take such further proceedings as may be necessary to carry out such agreement.

ARTICLE 9.

The High Contracting Parties further agree that any other questions or matters of difference arising between them involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along the common frontier between the United States and the Dominion of Canada, shall be referred from time to time to the International Joint Commission for examination and report, whenever either the Government of the United States or the Government of the Dominion of Canada shall request that such questions or matters of difference be so referred.

The International Joint Commission is authorized in each case so referred to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

Such reports of the Commission shall not be regarded as decisions of the questions or matters so submitted either on the facts or the law, and shall in no way have the character of an arbitral award.

The Commission shall make a joint report to both Governments in all cases in which all or a majority of the Commissioners agree, and in case of disagreement the minority may make a joint report to both Governments, or separate reports to their respective Governments.

In case the Commission is evenly divided upon any question or matter referred to it for report, separate reports shall

be made by the Commissioners on each side to their own Government.

ARTICLE 10.

Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's Government with the consent of the Governor General in Council. In each case so referred, the said Commission is authorized to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

A majority of the said Commission shall have power to render a decision or finding upon any of the questions or matters so referred.

If the said Commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an umpire chosen in accordance with the procedure prescribed in the fourth, fifth, and sixth paragraphs of Article XLV of The Hague Convention for the pacific settlement of international disputes, dated October 18, 1907. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree.

ARTICLE 11.

A duplicate original of all decisions rendered and joint reports made by the Commission shall be transmitted to and filed with the Secretary of State of the United States and the

Governor General of the Dominion of Canada, and to them shall be addressed all communications of the Commission.

ARTICLE 12.

The International Joint Commission shall meet and organize at Washington promptly after the members thereof are appointed, and when organized the Commission may fix such times and places for its meetings as may be necessary, subject at all times to special call or direction by the two Governments. Each Commissioner, upon the first joint meeting of the Commission after his appointent, shall, before proceeding with the work of the Commission, make and subscribe a solemn declaration in writing that he will faithfully and impartially perform the duties imposed upon him under this Treaty, and such declaration shall be entered on the records of the proceedings of the Commission.

The United States and Canadian sections of the Commission may each appoint a secretary, and these shall act as joint secretaries of the Commission at its joint sessions, and the Commission may employ engineers and clerical assistants from time to time as it may deem advisable. The salaries and personal expenses of the Commission and of the secretaries shall be paid by their respective Governments, and all reasonable and necessary joint expenses of the Commission, incurred by it, shall be paid in equal moieties by the High Contracting Parties.

The Commission shall have power to administer oaths to witnesses, and to take evidence on oath whenever deemed necessary in any proceeding, or inquiry, or matter within its jurisdiction under this Treaty, and all parties interested therein shall be given convenient opportunity to be heard, and the High Contracting Parties agree to adopt such legislation as may be appropriate and necessary to give the Commission the powers above mentioned on each side of the boundary, and to provide for the issue of subpœnas and for compelling the attendance of witnesses in proceedings before the Commission. The Commission may adopt such rules of procedure as shall be in accordance with justice and equity, and may make such examination in person and through agents or employees as may be deemed advisable.

ARTICLE 13.

In all cases where special agreements between the High Contracting Parties hereto are referred to in the foregoing

articles, such agreements are understood and intended to include not only direct agreements between the High Contracting Parties, but also any mutual arrangement between the United States and the Dominion of Canada expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of the Dominion.

ARTICLE 14.

The present Treaty shall be ratified by His Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof. The ratifications shall be exchanged at Washington as soon as possible, and the Treaty shall take effect on the date of the exchange of its ratifications. It shall remain in force for five years, dating from the day of exchange of ratifications, and thereafter until terminated by twelve months' written notice given by either High Contracting Party to the other.

In faith whereof the respective plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 11th day of January, in the year of our Lord one thousand nine hundred and nine.

[L.S.] JAMES BRYCE.
[L.S.] ELIHU ROOT.

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PROTOCOL OF EXCHANGE.*

On proceeding to the exchange of the ratifications of the treaty signed at Washington on January 11, 1909, between Great Britain and the United States, relating to boundary waters and questions arising along the boundary between the United States and the Dominion of Canada, the undersigned plenipotentiaries, duly authorized thereto by their respective Governments, hereby declare that nothing in this treaty shall be construed as affecting, or changing, any existing territorial, or riparian rights in the water, or rights of the owners of lands under water, on either side of the international boundary at the rapids of the St. Mary's River at Sault Ste. Marie, in the use

* The British Ratification of this further Instrument was deposited with the United States Government on July 23, 1910.

of the waters flowing over such lands, subject to the requirements of navigation in boundary waters and of navigation canals, and without prejudice to the existing right of the United States and Canada, each to use the waters of the St. Mary's River, within its own territory; and further, that nothing in this treaty shall be construed to interfere with the drainage of wet, swamp, and overflowed lands into streams flowing into boundary waters, and also that this declaration shall be deemed to have equal force and effect as the treaty itself and to form an integral part thereof.

The exchange of ratifications then took place in the usual form.

In witness whereof, they have signed the present Protocol of Exchange and have affixed their seals thereto.

Done at Washington this 5th day of May, one thousand nine hundred and ten.

[L.S.] JAMES BRYCE.
[L.S.] PHILANDER C. KNOX.

## 1909.

### SPECIAL AGREEMENT FOR THE SUBMISSION OF QUESTIONS RELATING TO FISHERIES ON THE NORTH ATLANTIC COAST UNDER THE GENERAL CONVENTION OF ARBITRATION CONCLUDED BETWEEN GREAT BRITAIN AND THE UNITED STATES ON APRIL 4, 1908.

*Signed at Washington, January 27, 1909.*

ARTICLE 1.

Whereas by Article 1 of the Convention signed at London on the 20th day of October, 1818, between Great Britain and the United States, it was agreed as follows:—

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties, that the inhabitants of the said United States shall have for ever, in common with the

[1] From Treaty Series No. 21, 1909.

subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on, or within 3 marine miles of, any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

And whereas differences have arisen as to the scope and meaning of the said Article, and of the liberties therein referred to, and otherwise in respect of the rights and liberties which the inhabitants of the United States have or claim to have in the waters or on the shores therein referred to:

It is agreed that the following questions shall be submitted for decision to a Tribunal of Arbitration constituted as hereinafter provided:—

*Question 1.* To what extent are the following contentions, or either of them justified?

It is contended on the part of Great Britain that the exercise of the liberty to take fish referred to in the said Article, which

the inhabitants of the United States have for ever in common with the subjects of His Britannic Majesty, is subject, without the consent of the United States, to reasonable regulation by Great Britain, Canada, or Newfoundland in the form of municipal Laws, Ordinances, or Rules, as, for example, to regulations in respect of (1) the hours, days, or seasons when fish may be taken on the Treaty Coasts; (2) the method, means, and implements to be used in the taking of fish or in the carrying on of fishing operations on such coasts; (3) any other matters of a similar character relating to fishing; such regulations being reasonable, as being, for instance—

(*a.*) Appropriate or necessary for the protection and preservation of such fisheries and the exercise of the rights of British subjects therein and of the liberty which by the said Article 1 the inhabitants of the United States have therein in common with British subjects;

(*b.*) Desirable on grounds of public order and morals;

(*c.*) Equitable and fair as between local fishermen and the inhabitants of the United States exercising the said Treaty liberty and not so framed as to give unfairly an advantage to the former over the latter class.

It is contended on the part of the United States that the exercise of such liberty is not subject to limitations or restraints by Great Britain, Canada, or Newfoundland in the form of municipal Laws, Ordinances, or Regulations in respect of (1) the hours, days, or seasons when the inhabitants of the United States may take fish on the Treaty Coasts, or (2) the method, means, and implements used by them in taking fish or in carrying on fishing operations on such coasts, or (3) any other limitations or restraints of similar character—

(*a.*) Unless they are appropriate and necessary for the protection and preservation of the common rights in such fisheries and the exercise thereof; and

(*b.*) Unless they are reasonable in themselves and fair as between local fishermen and fishermen coming from the United States, and not so framed as to give an advantage to the former over the latter class; and

(*c.*) Unless their appropriateness, necessity, reasonableness, and fairness be determined by the United States and Great Britain by common accord and the United States concurs in their enforcement.

*Question 2.* Have the inhabitants of the United States, while exercising the liberties referred to in said Article, a right to employ as members of the fishing crews of their vessels persons not inhabitants of the United States?

*Question 3.* Can the exercise by the inhabitants of the United States of the liberties referred to in the said Article be subjected, without the consent of the United States, to the requirements of entry or report at custom-houses or the payment of light or harbour or other dues, or to any other similar requirement or condition or exaction?

*Question 4.* Under the provision of the said Article that the American fishermen shall be admitted to enter certain bays or harbours for shelter, repairs, wood, or water, and for no other purpose whatever, but that they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein or in any other manner whatever abusing the privileges thereby reserved to them, is it permissible to impose restrictions making the exercise of such privileges conditional upon the payment of light or harbour or other dues, or entering or reporting at custom-houses or any similar conditions?

*Question 5.* From where must be measured the "3 marine miles of any of the coasts, bays, creeks, or harbours" referred to in the said Article?

*Question 6.* Have the inhabitants of the United States the liberty under the said Article or otherwise to take fish in the bays, harbours, and creeks on that part of the southern coast of Newfoundland which extends from Cape Ray to Rameau Islands, or on the western and northern coasts of Newfoundland from Cape Ray to Quirpon Islands, or on the Magdalen Islands?

*Question 7.* Are the inhabitants of the United States whose vessels resort to the treaty coasts for the purpose of exercising the liberties referred to in Article 1 of the Treaty of 1818 entitled to have for those vessels, when duly authorized by the United States in that behalf, the commercial privileges on the treaty coasts accorded by agreement or otherwise to United States trading-vessels generally?

ARTICLE 2.

Either party may call the attention of the Tribunal to any legislative or executive act of the other Party, specified within three months of the exchange of notes enforcing this Agreement,

and which is claimed to be inconsistent with the true interpretation of the Treaty of 1818; and may call upon the Tribunal to express in its award its opinion upon such acts and to point out in what respects, if any, they are inconsistent with the principles laid down in the award in reply to the preceding questions; and each Party agrees to conform to such opinion.

ARTICLE 3.

If any question arises in the arbitration regarding the reasonableness of any regulation or otherwise which requires an examination of the practical effect of any provisions in relation to the conditions surrounding the exercise of the liberty of fishery enjoyed by the inhabitants of the United States, or which requires expert information about the fisheries themselves, the Tribunal may, in that case, refer such question to a Commission of three expert specialists in such matters; one to be designated by each of the Parties hereto, and the third, who shall not be a national of either Party, to be designated by the Tribunal. This Commission shall examine into and report their conclusions on any question or questions so referred to it by the Tribunal, and such report shall be considered by the Tribunal and shall, if incorporated by them in the award, be accepted as a part thereof.

Pending the report of the Commission upon the question or questions so referred and without awaiting such report, the Tribunal may make a separate award upon all or any other questions before it, and such separate award, if made, shall become immediately effective, provided that the report aforesaid shall not be incorporated in the award until it has been considered by the Tribunal. The expenses of such Commission shall be borne in equal moieties by the parties hereto.

ARTICLE 4.

The Tribunal shall recommend for the consideration of the High Contracting Parties rules and a method of procedure under which all questions which may arise in the future regarding the exercise of the liberties above referred to may be determined in accordance with the principles laid down in the award. If the High Contracting Parties shall not adopt the rules and method of procedure so recommended, or if they shall not, sub-

sequently to the delivery of the award, agree upon such rules and methods, then any differences which may arise in the future between the High Contracting Parties relating to the interpretation of the Treaty of 1818 or to the effect and application of the award of the Tribunal shall be referred informally to the Permanent Court at The Hague for decision by the summary procedure provided in Chapter IV of The Hague Convention of the 18th October, 1907.

ARTICLE 5.

The Tribunal of Arbitration provided for herein shall be chosen from the general list of members of the Permanent Court at The Hague, in accordance with the provisions of Article 45 of the Convention for the Settlement of International Disputes, concluded at the Second Peace Conference at The Hague on the 18th October, 1907. The provisions of said Convention, so far as applicable and not inconsistent herewith, and excepting Articles 53 and 54, shall govern the proceedings under the submission herein provided for.

The time allowed for the direct agreement of His Britannic Majesty and the President of the United States on the composition of such Tribunal shall be three months.

ARTICLE 6.

The pleadings shall be communicated in the order and within the time following:—

As soon as may be, and within a period not exceeding seven months from the date of the exchange of notes making this Agreement binding, the printed Case of each of the Parties hereto, accompanied by printed copies of the documents, the official correspondence, and all other evidence on which each Party relies, shall be delivered in duplicate (with such additional copies as may be agreed upon) to the Agent of the other Party. It shall be sufficient for this purpose if such Case is delivered at the British Embassy at Washington or at the American Embassy at London, as the case may be, for transmission to the Agent for its Government.

Within fifteen days thereafter such printed Case and accompanying evidence of each of the Parties shall be delivered in duplicate to each member of the Tribunal, and such delivery may be made by depositing within the stated period the neces-

sary number of copies with the International Bureau at The Hague for transmission to the Arbitrators.

After the delivery on both sides of such printed Case, either party may, in like manner, and within four months after the expiration of the period above fixed for the delivery to the Agents of the Case, deliver to the Agent of the other Party (with such additional copies as may be agreed upon) a printed Counter-Case accompanied by printed copies of additional documents, correspondence, and other evidence in reply to the Case, documents, correspondence, and other evidence so presented by the other Party, and within fifteen days thereafter such party shall, in like manner as above provided, deliver in duplicate such Counter-Case and accompanying evidence to each of the Arbitrators.

The foregoing provisions shall not prevent the Tribunal from permitting either Party to rely at the hearing upon documentary or other evidence which is shown to have become open to its investigation or examination or available for use too late to be submitted within the period hereinabove fixed for the delivery of copies of evidence, but in case any such evidence is to be presented, printed copies of it, as soon as possible after it is secured, must be delivered, in like manner as provided for the delivery of copies of other evidence, to each of the Arbitrators and to the Agent of the other Party. The admission of any such additional evidence, however, shall be subject to such conditions as the Tribunal may impose, and the other Party shall have a reasonable opportunity to offer additional evidence in rebuttal.

The Tribunal shall take into consideration all evidence which is offered by either Party.

ARTICLE 7.

If in the Case or Counter-Case (exclusive of the accompanying evidence) either Party shall have specified or referred to any documents, correspondence, or other evidence in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party shall demand it within thirty days after the delivery of the Case or Counter-Case respectively, to furnish to the Party applying for it a copy thereof; and either Party may, within the like time demand that the other shall furnish certified copies or produce for inspection the originals of any documentary evidence adduced by the Party upon whom

the demand is made. It shall be the duty of the Party upon whom any such demand is made to comply with it as soon as may be, and within a period not exceeding fifteen days after the demand has been received. The production for inspection or the furnishing to the other Party of official governmental publications, publishing, as authentic, copies of the documentary evidence referred to, shall be a sufficient compliance with such demand, if such governmental publications shall have been published prior to the 1st day of January, 1908. If the demand is not complied with, the reasons for the failure to comply must be stated to the Tribunal.

ARTICLE 8.

The Tribunal shall meet within six months after the expiration of the period above fixed for the delivery to the Agents of the Case, and upon the assembling of the Tribunal at its first session each Party, through its Agent or counsel, shall deliver in duplicate to each of the Arbitrators and to the Agent and counsel of the other Party (with such additional copies as may be agreed upon) a printed Argument showing the points and referring to the evidence upon which it relies.

The time fixed by this Agreement for the delivery of the Case, Counter-Case, or Argument, and for the meeting of the Tribunal, may be extended by mutual consent of the Parties.

ARTICLE 9.

The decision of the Tribunal shall, if possible, be made within two months from the close of the Arguments on both sides, unless on the request of the Tribunal the Parties shall agree to extend the period.

It shall be made in writing, and dated and signed by each member of the Tribunal, and shall be accompanied by a statement of reasons.

A member who may dissent from the decision may record his dissent when signing.

The language to be used throughout the proceedings shall be English.

ARTICLE 10.

Each party reserves to itself the right to demand a revision of the Award. Such demand shall contain a statement of the

grounds on which it is made and shall be made within five days of the promulgation of the Award, and shall be heard by the Tribunal within ten days thereafter. The Party making the demand shall serve a copy of the same on the opposite Party, and both Parties shall be heard in argument by the Tribunal on said demand. The demand can only be made on the discovery of some new fact or circumstance calculated to exercise a decisive influence upon the Award and which was unknown to the Tribunal and to the Party demanding the revision at the time the discussion was closed, or upon the ground that the said Award does not fully and sufficiently, within the meaning of this Agreement, determine any question or questions submitted. If the Tribunal shall allow the demand for a revision, it shall afford such opportunity for further hearings and arguments as it shall deem necessary.

ARTICLE 11.

The present Agreement shall be deemed to be binding only when confirmed by the two Governments by an exchange of notes.

In witness whereof this Agreement has been signed and sealed by His Britannic Majesty's Ambassador at Washington, the Right Honourable James Bryce, O.M., on behalf of Great Britain, and by the Secretary of State of the United States, Elihu Root, on behalf of the United States.

Done at Washington on the 27th day of January, 1909.

(L.S.) JAMES BRYCE.
(L.S.) ELIHU ROOT.

*Mr. Bryce to Mr. Bacon.*

BRITISH EMBASSY, WASHINGTON,
March 4, 1909.

Sir,

I have the honour to acknowledge the receipt of your note informing me that the Senate of the United States has approved the Special Agreement for the reference to arbitration of the questions relating to the fisheries on the North Atlantic Coast and of the terms of the Resolution in which that approval is given.

It is now my duty to inform you that the Government of His Britannic Majesty confirms the Special Agreement aforesaid, and in doing so confirms also the understanding arrived at by us that Question 5 of the series of questions submitted for arbitration—namely, from where must be measured the "3 marine miles of any of the coasts, bays, creeks, or harbours" referred to in the said Article—is submitted in its present form with the agreed understanding that no question as to the Bay of Fundy, considered as a whole, apart from its bays or creeks, or as to innocent passage through the Gut of Canso, is included in this question as one to be raised in the present arbitration, it being the intention of the Parties that their respective views or contentions on either subject shall be in no wise prejudiced by anything in the present arbitration.

This understanding is that which was embodied in notes exchanged between your predecessor and myself on the 27th January, and is that expressed in the above-mentioned Resolution of the Senate of the United States.

I have, &c.,

JAMES BRYCE.

*Mr. Bacon to Mr. Bryce.*

DEPARTMENT OF STATE, WASHINGTON,
March 4, 1909.

Excellency,

I have the honour to acknowledge the receipt of your note of the 4th instant, in which you confirm the understanding in the matter of the Special Agreement submitting to arbitration the differences between the Governments of the United States and Great Britain concerning the North Atlantic fisheries, as expressed in the Resolution of the Senate of the 16 February, 1909, and as previously agreed upon by the interchange of notes with my predecessor of the 27th January, 1909.

I therefore have the honour to inform you that this Government considers the Special Agreement as in full force and effect from and after the 4th day of March, 1909.

I have, &c.,

ROBERT BACON.

# [1]AWARD OF THE TRIBUNAL OF ARBITRATION CONSTITUTED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 5 OF THE SPECIAL AGREEMENT BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA, SIGNED AT WASHINGTON THE 27TH JANUARY, 1909.

*The Hague, September 7th, 1910.*

## THE NORTH ATLANTIC COAST FISHERIES.

### Preamble.

Whereas a special agreement between the United States of America and Great Britain, signed at Washington the 27th January, 1909, and confirmed by interchange of notes dated the 4th of March, 1909, was concluded in conformity with the provisions of the General Arbitration Treaty between the United States of America and Great Britain, signed the 4th April, 1908, and ratified the 4th June, 1908;

And whereas the said special agreement for the submission of questions relating to fisheries on the North Atlantic coast under the General Treaty of Arbitration concluded between the United States and Great Britain on the 4th day of April, 1908, is as follows:—

(See page 195.)

And whereas the parties to the said Agreement have by common accord, in accordance with Article V., constituted as a Tribunal of Arbitration the following members of the Permanent Court at The Hague: Mr. H. Lammasch, Doctor of Law, Professor of the University of Vienna, Aulic Councillor, Member of the Upper House of the Austrian Parliament; His Excellency Jonkheer A. F. De Savornin Lohman, Doctor of Law, Minister of State, former Minister of the Interior, Member of the Second Chamber of the Netherlands; the Honourable George Gray, Doctor of Laws, Judge of the United States Circuit Court of Appeals, former United States Senator; the Right Honourable Sir Charles Fitzpatrick, Member of the Privy Council, Doctor of Laws, Chief Justice of Canada; the Honourable Luis Maria Drago, Doctor of Law,

[1] From the official copy supplied by the Office of the Permanent Court of Arbitration.

former Minister of Foreign Affairs of the Argentine Republic, Member of the Law Academy of Buenos Aires;

And whereas the agents of the Parties to the said Agreement have duly, and in accordance with the terms of the Agreement communicated to this Tribunal, their cases, counter-cases, printed arguments, and other documents;

And whereas counsel for the Parties have fully presented to this Tribunal their oral arguments in the sittings held between the first assembling of the Tribunal on the 1st June, 1910, to the close of the hearings on the 12th August, 1910;

Now, therefore, this Tribunal having carefully considered the said Agreement, cases, counter-cases, printed and oral arguments, and the documents presented by either side, after due deliberation makes the following decisions and awards:—

## QUESTION I.

To what extent are the following contentions, or either of them, justified?

It is contended on the part of Great Britain that the exercise of the liberty to take fish referred to in the said article, which the inhabitants of the United States have for ever in common with the subjects of His Britannic Majesty, is subject, without the consent of the United States, to reasonable regulation by Great Britain, Canada, or Newfoundland in the form of municipal laws, ordinances, or rules, as, for example, to regulations in respect of (1) the hours, days, or seasons when fish may be taken on the treaty coasts; (2) the method, means, and implements to be used in the taking of fish or in the carrying on of fishing operations on such coasts; (3) any other matters of a similar character relating to fishing; such regulations being reasonable, as being, for instance—

(*a.*) Appropriate or necessary for the protection and preservation of such fisheries and the exercise of the rights of British subjects therein, and of the liberty which by the said Article I. the inhabitants of the United States have therein in common with British subjects;

(*b.*) Desirable on grounds of public order and morals;

(*c.*) Equitable and fair as between local fishermen and the inhabitants of the United States exercising the said treaty liberty, and not so framed as to give unfairly an advantage to the former over the latter class.

It is contended on the part of the United States that the exercise of such liberty is not subject to limitations or restraints by Great Britain, Canada, or Newfoundland in the form of municipal laws, ordinances, or regulations in respect of (1) the hours, days, or seasons when the inhabitants of the United States may take fish on the treaty coasts, or (2) the method, means and implements used by them in taking fish or in carrying on fishing operations on such coasts, or (3) any other limitations or restraints of similar character—

(*a.*) Unless they are appropriate and necessary for the protection and preservation of the common rights in such fisheries and the exercise thereof; and

(*b.*) Unless they are reasonable in themselves and fair as between local fishermen and fishermen coming from the United States, and not so framed as to give an advantage to the former over the latter class; and

(*c*) Unless their appropriateness, necessity, reasonableness, and fairness be determined by the United States and Great Britain by common accord and the United States concurs in their enforcement.

Question I, thus submitted to the Tribunal, resolves itself into two main contentions:—

1st. Whether the right of regulating reasonably the liberties conferred by the treaty of 1818 resides in Great Britain;

2nd. And, if such right does so exist, whether such reasonable exercise of the right is permitted to Great Britain without the accord and concurrence of the United States.

The treaty of 1818 contains no explicit disposition in regard to the right of regulation reasonable or otherwise; it neither reserves that right in express terms, nor refers to it in any way. It is therefore incumbent on this Tribunal to answer the two questions above indicated by interpreting the general terms of Article I. of the Treaty and more especially the words "the inhabitants of the United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind." This interpretation must be conformable to the general import of the instrument, the general intention of the parties to it, the subject matter of the contract, the expressions actually used and the evidence submitted.

Now in regard to the preliminary question as to whether the right of reasonable regulation resides in Great Britain:—

Considering that the right to regulate the liberties conferred by the treaty of 1818 is an attribute of sovereignty, and as such must be held to reside in the territorial sovereign, unless the contrary be provided; and considering that one of the essential elements of sovereignty is that it is to be exercised within territorial limits, and that, failing proof to the contrary, the territory is coterminous with the sovereignty, it follows that the burden of the assertion involved in the contention of the United States (viz., that the right to regulate does not reside independently in Great Britain, the territorial sovereign) must fall on the United States. And for the purpose of sustaining this burden, the United States have put forward the following series of propositions, each one of which must be singly considered.

It is contended by the United States:—

(1) That the French right of fishery under the treaty of 1763 designated also as a liberty, was never subjected to regulation by Great Britain, and therefore the inference is warranted that the American liberties of fishery are similarly exempted.

The Tribunal is unable to agree with this contention:—

(*a.*) Because although the French right designated in 1713 merely "an allowance" (a term of even less force than that used in regard to the American fishery) was nevertheless converted, in practice, into an exclusive right, this concession on the part of Great Britain was presumably made because France, before 1713, claimed to be the sovereign of Newfoundland, and in ceding the island, had, as the American argument says, "reserved for the benefit of its subjects the right to fish and to use the strand;"

(*b.*) Because the distinction between the French and American right is indicated by the different wording of the statutes for the observance of treaty obligations towards France and the United States, and by the British Declaration of 1783;

(*c.*) And, also, because this distinction is maintained in the treaty with France of 1904, concluded at a date when the American claim was approaching its present stage, and by which certain common rights of regulation are recognized to France.

For the further purpose of such proof it is contended by the United States:—

(2) That the liberties of fishery, being accorded to the inhabitants of the United States "for ever," acquire, by being in perpetuity and unilateral, a character exempting them from local legislation.

The Tribunal is unable to agree with this contention:—

(*a.*) Because there is no necessary connection between the duration of a grant and its essential status in its relation to local regulation; a right granted in perpetuity may yet be subject to regulation, or, granted temporarily, may yet be exempted therefrom; or being reciprocal may yet be unregulated or being unilateral may yet be regulated; as is evidenced by the claim of the United States that the liberties of fishery accorded by the Reciprocity Treaty of 1854 and the treaty of 1871 were exempt from regulation, though they were neither permanent nor unilateral;

(*b.*) Because no peculiar character need be claimed for these liberties in order to secure their enjoyment in perpetuity, as is evidenced by the American negotiators in 1818 asking for the insertion of the words "for ever." International law in its modern development recognizes that a great number of treaty obligations are not annulled by war, but at most suspended by it;

(*c.*) Because the liberty to dry and cure is, pursuant to the terms of the treaty, provisional and not permanent, and is nevertheless, in respect of the liability to regulation, identical in its nature with, and never distinguished from, the liberty to fish.

For the further purpose of such proof, the United States allege:—

(3.) That the liberties of fishery granted to the United States constitute an international servitude in their favour over the territory of Great Britain, thereby involving a derogation from the sovereignty of Great Britain, the servient State, and that therefore Great Britain is deprived, by reason of the grant, of its independent right to regulate the fishery.

The Tribunal is unable to agree with this contention:—

(*a.*) Because there is no evidence that the doctrine of international servitudes was one with which either American or British statesmen were conversant in 1818, no English

publicists employing the term before 1818, and the mention of it in Mr. Gallatin's report being insufficient;

(*b.*) Because a servitude in the French law, referred to by Mr. Gallatin, can, since the Code, be only real and cannot be personal (Code Civil, article 686).

(*c.*) Because a servitude in international law predicates an express grant of a sovereign right and involves an analogy to the relation of a *prædium dominans* and a *prædium serviens;* whereas by the treaty of 1818 one State grants a liberty to fish, which is not a sovereign right, but a purely economic right, to the inhabitants of another State;

(*d.*) Because the doctrine of international servitude in the sense which is now sought to be attributed to it originated in the peculiar and now obsolete conditions prevailing in the Holy Roman Empire of which the *domini terræ* were not fully sovereigns; they holding territory under the Roman Empire, subject at least theoretically, and in some respects also practically, to the courts of that Empire; their right being, moreover, rather of a civil than of a public nature, partaking more of the character of *dominium* than of *imperium,* and therefore certainly not a complete sovereignty. And because in contradistinction to this quasi-sovereignty with its incoherent attributes acquired at various times, by various means, and not impaired in its character by being incomplete in any one respect or by being limited in favour of another territory and its possessor, the modern State, and particularly Great Britain, has never admitted partition of sovereignty, owing to the constitution of a modern State requiring essential sovereignty and independence;

(*e.*) Because this doctrine being but little suited to the principle of sovereignty which prevails in States under a system of constitutional government such as Great Britain and the United States, and to the present international relations of sovereign States, has found little, if any, support from modern publicists. It could therefore in the general interest of the community of nations, and of the Parties to this treaty, be affirmed by this Tribunal only on the express evidence of an international contract;

(*f.*) Because even if these liberties of fishery constituted an international servitude, the servitude would derogate from the sovereignty of the servient State only in so far as the exercise of the rights of sovereignty by the servient State would

be contrary to the exercise of the servitude right by the dominant State. Whereas it is evident that, though every regulation of the fishery is to some extent a limitation, as it puts limits to the exercise of the fishery at will, yet such regulations as are reasonable and made for the purpose of securing and preserving the fishery and its exercise for the common benefit, are clearly to be distinguished from those restrictions and "molestations," the annulment of which was the purpose of the American demands formulated by Mr. Adams in 1782, and such regulations consequently cannot be held to be inconsistent with a servitude;

(*g.*) Because the fishery to which the inhabitants of the United States were admitted in 1783, and again in 1818, was a regulated fishery, as is evidenced by the following regulations:—

Act 15 Charles II, cap. 16, sec. 7 (1663), forbidding "to lay any seine or other net in or near any harbour in Newfoundland, whereby to take the spawn or young fry of the Poor-John, or for any other use or uses, except for the taking of bait only," which had not been superseded either by the Order-in-Council of March 10th, 1670, or by the statute 10 and 11 Wm. III, cap. 25, 1699. The Order-in-Council provides expressly for the obligation "to submit unto and to observe all rules and orders as are now, or hereafter shall be, established," an obligation which cannot be read as referring only to the rules established by this very Act, and having no reference to anteceding rules "as are now established." In a similar way the statute of 1699 preserves in force prior legislation, conferring the freedom of fishery only "as fully and freely as at any time heretofore." The Order-in-Council, 1670, provides that the admirals, who always were fishermen, arriving from an English or Welsh port, "see that His Majesty's rules and orders concerning the regulation of the fisheries are duly put in execution" (sec. 13). Likewise the Act 10 and 11 Wm. III, cap. 25 (1699) provides that the admirals do settle differences between the fishermen arising in respect of the places to be assigned to the different vessels. As to Nova Scotia, the proclamation of 1665 ordains that no one shall fish without license; that the licensed fishermen are obliged "to observe all laws and orders which now are made and published, or shall hereafter be made and published, in this jurisdiction," and that they shall not fish on the Lord's

Day, and shall not take fish at the time they come to spawn. The judgment of the Chief Justice of Newfoundland, October 26th, 1820, is not held by the Tribunal sufficient to set aside the proclamations referred to. After 1783 the statute 26 Geo. III, cap. 26, 1786, forbids "the use, on the shores of Newfoundland, of seines or nets for catching cod by hauling on shore or taking into boat with meshes less than 4 inches"; a prohibition which cannot be considered as limited to the bank fishery. The Act for regulating the fisheries of New Brunswick, 1793, which forbids "the placing of nets or seines across any cove or creek in the province so as to obstruct the natural course of fish," and which makes specific provision for fishing in the harbour of St. John, as to the manner and time of fishing, cannot be read as being limited to fishing from the shore. The Act for regulating the fishing on the coast of Northumberland (1799) contains very elaborate dispositions concerning the fisheries in the Bay of Miramichi, which were continued in 1823, 1829 and 1834. The statutes of Lower Canada, 1788 and 1807, forbid the throwing overboard of offal. The fact that these Acts extend the prohibition over a greater distance than the first marine league from the shore may make them non-operative against foreigners without the territorial limits of Great Britain, but is certainly no reason to deny their obligatory character for foreigners within these limits;

(*h.*) Because the fact that Great Britain rarely exercised the right of regulation in the period immediately succeeding 1818 is to be explained by various circumstances, and is not evidence of the non-existence of the right;

(*i.*) Because the words "in common with British subjects" tend to confirm the opinion that the inhabitants of the United States were admitted to a regulated fishery;

(*j.*) Because the statute of Great Britain, 1819, which gives legislative sanction of the treaty of 1818, provides for the making of "regulations with relation to the taking, drying and curing of fish by inhabitants of the United States 'in common.'"

For the purpose of such proof it is further contended by the United States, in this latter connection:—

4. That the words "in common with British subjects" used in the treaty should not be held as importing a common subjection to regulation, but as intending to negative a

possible pretension on the part of the inhabitants of the United States to liberties of fishery exclusive of the right of British subjects to fish.

The Tribunal is unable to agree with this contention:—

(*a.*) Because such an interpretation is inconsistent with the historical basis of the American fishing liberty. The ground on which Mr. Adams founded the American right in 1782 was that the people then constituting the United States had always, when still under British rule, a part in these fisheries and that they must continue to enjoy their past right in the future. He proposed "that the subjects of His Britannic Majesty and the people of the United States shall continue to enjoy unmolested the right to take fish.....where the inhabitants of both countries used, at any time heretofore, to fish." The theory of the partition of the fisheries which, by the American negotiators, had been advanced with so much force, negatives the assumption that the United States could ever pretend to an exclusive right to fish on the British shores; and to insert a special disposition to that end would have been wholly superfluous;

(*b.*) Because the words "in common" occur in the same connection in the treaty of 1818 as in the treaties of 1854 and 1871. It will certainly not be suggested that in these treaties of 1854 and 1871 the American negotiators meant by inserting the words "in common" to imply that without these words American citizens would be precluded from the right to fish on their own coasts and that, on American shores British subjects should have an exclusive privilege. It would have been the very opposite of the concept of territorial waters to suppose that, without a special treaty provision, British subjects could be excluded from fishing in British waters. Therefore that cannot have been the scope and the sense of the words "in common";

(*c.*) Because the words "in common" exclude the supposition that American inhabitants were at liberty to act at will for the purpose of taking fish, without any regard to the co-existing rights of other persons entitled to do the same thing; and because these words admit them only as members of a social community, subject to the ordinary duties binding upon the citizens of that community, as to the regulations made for the common benefit; thus avoiding the *bellum omnium contra*

*omnes* which would otherwise arise in the exercise of this industry;

(*d.*) Because these words are such as would naturally suggest themselves to the negotiators of 1818, if their intention had been to express a common subjection to regulations as well as a common right.

In the course of the Argument it has also been alleged by the United States:—

> (5.) That the treaty of 1818 should be held to have entailed a transfer or partition of sovereignty, in that it must in respect to the liberties of fishery be interpreted in its relation to the treaty of 1783; and that this latter treaty was an act of partition of sovereignty and of separation, and as such was not annulled by the war of 1812.

Although the Tribunal is not called upon to decide the issue whether the treaty of 1783 was a treaty of partition or not, the questions involved therein having been set at rest by the subsequent treaty of 1818, nevertheless the Tribunal could not forbear to consider the contention on account of the important bearing the controversy has upon the true interpretation of the treaty of 1818. In that respect the Tribunal is of opinion:—

(*a.*) That the right to take fish was accorded as a condition of peace to a foreign people; wherefore the British negotiators refused to place the right of British subjects on the same footing with those of American inhabitants; and further, refused to insert the words also proposed by Mr. Adams—"continue to enjoy"—in the second branch of Article III of the treaty of 1783;

(*b.*) That the treaty of 1818 was in different terms, and very different in extent, from that of 1783, and was made for different considerations. It was, in other words, a new grant.

For the purpose of such proof it is further contended by the United States:—

> 6. That as contemporary commercial treaties contain express provisions for submitting foreigners to local legislation, and the treaty of 1818 contains no such provision, it should be held, *a contrario*, that inhabitants of the United States exercising these liberties are exempt from regulation.

The Tribunal is unable to agree with this contention:—

(*a.*) Because the commercial treaties contemplated did not admit foreigners to all and equal rights, seeing that local legislation excluded them from many rights of importance, *e.g.*, that of holding land; and the purport of the provisions in question consequently was to preserve these discriminations. But no such discriminations existing in the common enjoyment of the fishery by American and British fishermen, no such provision was required;

(*b.*) Because no proof is furnished of similar exemptions of foreigners from local legislation in default of treaty stipulations subjecting them thereto;

(*c.*) Because no such express provision for subjection of the nationals of either Party to local law was made either in this treaty, in respect to their reciprocal admission to certain territories as agreed in Article III, or in Article III of the treaty of 1794; although such subjection was clearly contemplated by the Parties.

For the purpose of such proof it is further contended by the United States:—

> 7. That, as the liberty to dry and cure on the treaty coasts and to enter bays and harbours on the non-treaty coasts are both subjected to conditions and the latter to specific restrictions, it should therefore be held that the liberty to fish should be subjected to no restrictions, as none are provided for in the treaty.

The Tribunal is unable to apply the principle of "*expressio unius exclusio alterius*" to this case:—

(*a.*) Because the conditions and restrictions as to the liberty to dry and cure on the shore and to enter the harbours are limitations of the rights themselves, and not restrictions of their exercise. Thus the right to dry and cure is limited in duration, and the right to enter bays and harbours is limited to particular purposes;

(*b.*) Because these restrictions of the right to enter bays and harbours applying solely to American fishermen must have been expressed in the treaty, whereas regulations of the fishery, applying equally to American and British, are made by right of territorial sovereignty.

For the purpose of such proof it has been contended by the United States:—

(8.) That Lord Bathurst in 1815 mentioned the American right under the treaty of 1783 as a right to be exercised "at the discretion of the United States": and that this should be held as to be derogatory to the claim of exclusive regulation by Great Britain.

But the Tribunal is unable to agree with this contention:—

(*a.*) Because these words implied only the necessity of an express stipulation for any liberty to use foreign territory at the pleasure of the grantee, without touching any question as to regulation;

(*b*) Because in this same letter Lord Bathurst characterized this right as a policy "temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences from a military, naval and commercial point of view"; so that it cannot have been his intention to acknowledge the exclusion of British interference with this right;

(*c.*) Because Lord Bathurst, in his note to Governor Sir C. Hamilton in 1819, orders the Governor to take care that the American fishery on the coast of Labrador be carried on *in the same manner* as previous to the late war; showing that he did not interpret the treaty just signed as a grant conveying absolute immunity from interference with the American fishery right.

For the purpose of such proof it is further contended by the United States:—

(9.) That on various other occasions following the conclusion of the treaty, as evidenced by official correspondence, Great Britain made use of expressions inconsistent with the claim to a right of regulation.

The Tribunal, unwilling to invest such expressions with an importance entitling them to affect the general question, considers that such conflicting or inconsistent expressions as have been exposed on either side are sufficiently explained by their relation to ephemeral phases of a controversy of almost secular duration, and should be held to be without direct effect on the principal and present issues.

Now, with regard to the second contention involved in Question I, as to whether the right of regulation can be reason-

ably exercised by Great Britain without the consent of the United States:—

Considering that the recognition of a concurrent right of consent in the United States would affect the independence of Great Britain, which would become dependent on the Government of the United States for the exercise of its sovereign right of regulation, and considering that such a co-dominium would be contrary to the constitution of both sovereign States; the burden of proof is imposed on the United States to show that the independence of Great Britain was thus impaired by international contract in 1818 and that a co-dominium was created.

For the purpose of such proof it is contended by the United States:—

> (10.) That a concurrent right to co-operate in the making and enforcement of regulations is the only possible and proper security to their inhabitants for the enjoyment of their liberties of fishery, and that such a right must be held to be implied in the grant of those liberties by the treaty under interpretation.

The Tribunal is unable to accede to this claim on the ground of a right so implied:—

(*a.*) Because every State has to execute the obligations incurred by treaty *bona fide*, and is urged thereto by the ordinary sanctions of international law in regard to observance of treaty obligations. Such sanctions are, for instance, appeal to public opinion, publication of correspondence, censure by Parliamentary vote, demand for arbitration with the odium attendant on a refusal to arbitrate, rupture of relations, reprisal, &c. But no reason has been shown why this treaty, in this respect, should be considered as different from every other treaty under which the right of a State to regulate the action of foreigners admitted by it on its territory is recognized;

(*b.*) Because the exercise of such a right of consent by the United States would predicate an abandonment of its independence in this respect by Great Britain, and the recognition by the latter of a concurrent right of regulation in the United States. But the treaty conveys only a liberty to take fish in common, and neither directly nor indirectly conveys a joint right of regulation;

(*c.*) Because the treaty does not convey a common right of fishery, but a liberty to fish in common. This is evidenced by

the attitude of the United States Government in 1823, with respect to the relations of Great Britain and France in regard to the fishery;

(*d.*) Because if the consent of the United States were requisite for the fishery a general veto would be accorded them, the full exercise of which would be socially subversive and would lead to the consequence of an unregulatable fishery;

(*e*) Because the United States cannot by assent give legal force and validity to British legislation;

(*f.*) Because the liberties to take fish in British territorial waters and to dry and cure fish on land in British territory are in principle on the same footing; but in practice a right of co-operation in the elaboration and enforcement of regulations in regard to the latter liberty (drying and curing fish on land) is unrealisable.

In any event, Great Britain, as the local sovereign, has the duty of preserving and protecting the fisheries. In so far as it is necessary for that purpose, Great Britain is not only entitled, but obliged, to provide for the protection and preservation of the fisheries; always remembering that the exercise of this right of legislation is limited by the obligation to execute the treaty in good faith. This has been admitted by counsel and recognized by Great Britain in limiting the right of regulation to that of reasonable regulation. The inherent defect of this limitation of reasonableness, without any sanction except in diplomatic remonstrance, has been supplied by the submission to arbitral Award as to existing regulations in accordance with Articles II and III of the Special Agreement, and as to further regulation by the obligation to submit their reasonableness to an arbitral test in accordance with Article IV of the agreement.

It is finally contended by the United States:—

That the United States did not expressly agree that the liberty granted to them could be subjected to any restriction that the grantor might choose to impose on the ground that in her judgment such restriction was reasonable. And that while admitting that all laws of a general character, controlling the conduct of men within the territory of Great Britain, are effective, binding and beyond objection by the United States, and competent to be made upon the sole determination of Great Britain or her colony, without accountability to anyone whomsoever; yet there is somewhere a line, beyond which it is not

competent for Great Britain to go, or beyond which she cannot rightfully go, because to go beyond it would be an invasion of the right granted to the United States in 1818. That the legal effect of the grant of 1818 was not to leave the determination as to where that line is to be drawn to the uncontrolled judgment of the grantor, either upon the grantor's consideration as to what would be a reasonable exercise of its sovereignty over the British Empire, or upon the grantor's consideration of what would be a reasonable exercise thereof towards the grantee.

But this contention is founded on assumptions which this Tribunal cannot accept for the following reasons in addition to those already set forth:—

(*a.*) Because the line by which the respective rights of both parties accruing out of the treaty are to be circumscribed, can refer only to the right granted by the treaty; that is to say, to the liberty of taking, drying and curing fish by American inhabitants in certain British waters in common with British subjects, and not to the exercise of rights of legislation by Great Britain not referred to in the treaty;

(*b.*) Because a line which would limit the exercise of sovereignty of a State within the limits of its own territory can be drawn only on the ground of express stipulation, and not by implication from stipulations concerning a different subject-matter;

(*c.*) Because the line in question is drawn according to the principle of international law that treaty obligations are to be executed in perfect good faith, therefore excluding the right to legislate *at will* concerning the subject-matter of the treaty, and limiting the exercise of sovereignty of the States bound by a treaty with respect to that subject-matter to such acts as are consistent with the treaty;

(*d.*) Because on a true construction of the treaty the question does not arise whether the United States agreed that Great Britain should retain the right to legislate with regard to the fisheries in her own territory; but whether the treaty contains an abdication by Great Britain of the right which Great Britain, as the Sovereign Power, undoubtedly possessed when the treaty was made, to regulate those fisheries;

(*e.*) Because the right to make reasonable regulations, not inconsistent with the obligations of the treaty which is all that is claimed by Great Britain, for a fishery which both Parties

admit requires regulation for its preservation, is not a restriction of or an invasion of the liberty granted to the inhabitants of the United States. This grant does not contain words to justify the assumption that the sovereignty of Great Britain upon its own territory was in any way affected; nor can words be found in the treaty transferring any part of that sovereignty to the United States. Great Britain assumed only duties with regard to the exercise of its sovereignty. The sovereignty of Great Britain over the coastal waters and territory of Newfoundland remains after the treaty as unimpaired as it was before. But from the treaty results an obligatory relation whereby the right of Great Britain to exercise its right of sovereignty by making regulations is limited to such regulations as are made in good faith, and are not in violation of the treaty;

(*f.*) Finally, to hold that the United States, the grantee of the fishing right, has a voice in the preparation of fishery legislation involves the recognition of a right in that country to participate in the internal legislation of Great Britain and her colonies, and to that extent would reduce these countries to a state of dependence.

While therefore unable to concede the claim of the United States as based on the treaty, this Tribunal considers that such claim has been and is to some extent, conceded in the relations now existing between the two Parties. Whatever may have been the situation under the treaty of 1818 standing alone, the exercise of the right of regulation inherent in Great Britain has been, and is, limited by the repeated recognition of the obligations already referred to, by the limitations and liabilities accepted in the Special Agreement, by the unequivocal position assumed by Great Britain in the presentation of its case before this Tribunal, and by the consequent view of this Tribunal that it would be consistent with all the circumstances, as revealed by this record, as to the duty of Great Britain, that she should submit the reasonableness of any future regulation to such an impartial arbitral test, affording full opportunity therefor, as is hereafter recommended under the authority of Article IV of the Special Agreement, whenever the reasonableness of any regulation is objected to or challenged by the United States in the manner, and within the time hereinafter specified in the said recommendation.

Now, therefore, this Tribunal decides and awards as follows:—

The right of Great Britain to make regulations without the consent of the United States as to the exercise of the liberty to take fish referred to in Article I of the treaty of October 20, 1818, in the form of municipal laws, ordinances or rules of Great Britain, Canada or Newfoundland is inherent to the sovereignty of Great Britain.

The exercise of that right by Great Britain is, however, limited by the said treaty in respect of the said liberties therein granted to the inhabitants of the United States in that such regulations must be made bona fide and must not be in violation of the said treaty.

Regulations which are (1) appropriate or necessary for the protection and preservation of such fisheries, or (2) desirable or necessary on grounds of public order and morals without unnecessarily interfering with the fishery itself, and in both cases equitable and fair as between local and American fishermen, and not so framed as to give unfairly an advantage to the former over the latter class, are not inconsistent with the obligation to execute the treaty in good faith, and are therefore reasonable and not in violation of the treaty.

For the decision of the question whether a regulation is or is not reasonable, as being or not in accordance with the dispositions of the treaty and not in violation thereof, the treaty of 1818 contains no special provision. The settlement of differences in this respect that might arise thereafter was left to the ordinary means of diplomatic intercourse. By reason, however, of the form in which Question I is put, and by further reason of the admission of Great Britain by her counsel before this Tribunal that it is not now for either of the Parties to the treaty to determine the reasonableness of any regulation made by Great Britain, Canada or Newfoundland, the reasonableness of any such regulation, if contested, must be decided not by either of the Parties, but by an impartial authority in accordance with the principles hereinabove laid down, and in the manner proposed in the recommendations made by the Tribunal in virtue of Article IV of the agreement.

The Tribunal further decides that Article IV of the agreement is, as stated by counsel of the respective Parties at the argument, permanent in its effect, and not terminable by the expiration of the General Arbitration Treaty of 1908 between Great Britain and the United States.

In execution, therefore, of the responsibilities imposed upon this Tribunal in regard to Articles II, III and IV of the Special Agreement, we hereby pronounce in their regard as follows:—

## AS TO ARTICLE II.

Pursuant to the provisions of this article hereinbefore cited, either Party has called the attention of this Tribunal to acts of the other claimed to be inconsistent with the true interpretation of the treaty of 1818.

But in response to a request from the Tribunal, recorded in Protocol No. 26 of 19th July, for an exposition of the grounds of such objections, the Parties replied as reported in Protocol No. 30 of 28th July to the following effect:—

His Majesty's Government considered that it would be unnecessary to call upon the Tribunal for an opinion under the second clause of Article II, in regard to the executive act of the United States of America in sending warships to the territorial waters in question, in view of the recognized motives of the United States of America in taking this action, and of the relations maintained by their representatives with the local authorities. And this being the sole act to which the attention of this Tribunal has been called by His Majesty's Government, no further action in their behalf is required from this Tribunal under Article II.

The United States of America presented a statement in which their claim that specific provisions of certain legislative and executive acts of the Governments of Canada and Newfoundland were inconsistent with the true interpretation of the treaty of 1818 was based on the contention that these provisions were not 'reasonable' within the meaning of Question I.

After calling upon this Tribunal to express an opinion on these acts, pursuant to the second clause of Article II, the United States of America pointed out in that statement that under Article III any question regarding the reasonableness of any regulation might be referred by the Tribunal to a Commission of expert specialists, and expressed an intention of asking for such reference under certain circumstances.

The Tribunal having carefully considered the counter-statement presented on behalf of Great Britain at the session of August 2, is of opinion that the decision on the reason-

ableness of these regulations requires expert information about the fisheries themselves and an examination of the practical effect of a great number of these provisions in relation to the conditions surrounding the exercise of the liberty of fishery enjoyed by the inhabitants of the United States, as contemplated by Article III. No further action on behalf of the United States is therefore required from this Tribunal under Article II.

## AS TO ARTICLE III.

As provided in Article III, hereinbefore cited and above referred to, any question regarding the reasonableness of any regulation, or otherwise, which requires an examination of the practical effect of any provisions surrounding the exercise of the liberty of fishery enjoyed by the inhabitants of the United States, or which requires expert information about the fisheries themselves, may be referred by this Tribunal to a Commission of expert specialists one to be designated by each of the Parties hereto, and the third, who shall not be a national of either Party, to be designated by the Tribunal.

The Tribunal now, therefore, calls upon the Parties to designate within one month their national Commissioners for the expert examination of the questions submitted.

As the third non-national Commissioner this Tribunal designates Dr. P. P. C. Hoek, scientific adviser for the fisheries of the Netherlands, and if any necessity arises therefor a substitute may be appointed by the President of this Tribunal.

After a reasonable time, to be agreed on by the Parties, for the expert Commission to arrive at a conclusion, by conference, or, if necessary, by local inspection, the Tribunal shall, if convoked by the President at the request of either Party, thereupon at the earliest convenient date, reconvene to consider the report of the Commission, and if it be on the whole unanimous shall incorporate it in the Award. If not on the whole unanimous—i.e., on all points which, in the opinion of the Tribunal, are of essential importance—the Tribunal shall make its award as to the regulations concerned after consideration of the conclusions of the expert Commissioners and after hearing argument by counsel.

But while recognizing its responsibilities to meet the obligations imposed on it under Article III of the Special Agreement, the Tribunal hereby recommends as an alternative to having recourse to a reconvention of this Tribunal, that the

Parties should accept the unanimous opinion of the Commission or the opinion of the non-national Commissioner on any points in dispute as an arbitral Award rendered under the provisions of chapter iv of The Hague Convention of 1907.

## AS TO ARTICLE IV.

Pursuant to the provisions of this article hereinbefore cited, this Tribunal recommends for the consideration of the Parties the following rules and method of procedure under which all questions which may arise in the future regarding the exercise of the liberties above referred to may be determined in accordance with the principles laid down in this Award.

1.

All future municipal laws, ordinances or rules for the regulation of the fishery by Great Britain in respect of (1) the hours, days or seasons when fish may be taken on the treaty coasts; (2) the method, means and implements used in the taking of fish or in carrying on fishing operations; (3) any other regulation of a similar character shall be published in the 'London Gazette' two months before going into operation.

Similar regulations by Canada or Newfoundland shall be similarly published in the 'Canada Gazette' and the 'Newfoundland Gazette' respectively.

2.

If the Government of the United States considers any such laws or regulations inconsistent with the treaty of 1818, it is entitled to so notify the Government of Great Britain within the two months referred to in Rule No. 1.

3.

Any law or regulation so notified shall not come into effect with respect to inhabitants of the United States until the Permanent Mixed Fishery Commission has decided that the regulation is reasonable within the meaning of this Award.

4.

Permanent Mixed Fishery Commissions for Canada and Newfoundland respectively shall be established for the decision

of such questions as to the reasonableness of future regulations, as contemplated by Article IV of the Special Agreement; these commissions shall consist of an expert national appointed by either Party for five years. The third member shall not be a national of either party; he shall be nominated for five years by agreement of the Parties, or failing such agreement within two months, he shall be nominated by Her Majesty the Queen of the Netherlands. The two national members shall be convoked by the Government of Great Britain within one month from the date of notification by the Government of the United States.

5.

The two national members having failed to agree within one month, within another month the full Commission, under the presidency of the Umpire, is to be convoked by Great Britain. It must deliver its decision, if the two Governments do not agree otherwise, at the latest in three months. The Umpire shall conduct the procedure in accordance with that provided in chapter iv of the Convention for the Pacific Settlement of International Disputes, except in so far as herein otherwise provided.

6.

The form of convocation of the Commission including the terms of reference of the question at issue shall be as follows:

'The provision hereinafter fully set forth of an Act dated ' published in the , has been notified to the Government of Great Britain by the Government of the United States, under date of , as provided by the award of the Hague Tribunal of September 7, 1910.

'Pursuant to the provisions of that Award the Government of Great Britain hereby convokes the Permanent Mixed

(Canada)

Fishery Commission for ———————— composed of

(Newfoundland)

Commissioner for the United States of America, and of

(Canada)

Commissioner for ————————, which shall meet at

(Newfoundland)

, and render a decision within one month

as to whether the provision so notified is reasonable and consistent with the treaty of 1818, as interpreted by the Award of the Hague Tribunal of September 7, 1910, and if not, in what respect is it unreasonable and inconsistent therewith.

'Failing an agreement on this question within one month the Commission shall so notify the Government of Great Britain in order that the further action required by that Award may be taken for the decision of the above question.

'The provision is as follows:—

7.

The unanimous decision of the two national Commissioners, or the majority decision of the Umpire and one Commissioner, shall be final and binding.

## QUESTION II.

Have the inhabitants of the United States, while exercising the liberties referred to in said article, a right to employ as members of the fishing crews of their vessels persons not inhabitants of the United States?

In regard to this question the United States claim in substance:—

1. That the liberty assured to their inhabitants by the treaty plainly includes the right to use all the means customary or appropriate for fishing upon the sea, not only ships and nets and boats, but crews to handle the ships and the nets and the boats;
2. That no right to control or limit the means which these inhabitants shall use in fishing can be admitted unless it is provided in the terms of the treaty and no right to question the nationality or inhabitancy of the crews employed is contained in the terms of the treaty.

And Great Britain claims:—

1. That the treaty confers the liberty to inhabitants of the United States exclusively;
2. That the Governments of Great Britain, Canada or Newfoundland may, without infraction of the treaty, prohibit persons from engaging as fishermen in American vessels.

Now considering (1) that the liberty to take fish is an economic right attributed by the treaty; (2) that it is attri-

buted to inhabitants of the United States, without any mention of their nationality; (3) that the exercise of an economic right includes the right to employ servants; (4) that the right of employing servants has not been limited by the treaty to the employment of persons of a distinct nationality or inhabitancy; (5) that the liberty to take fish as an economic liberty refers not only to the individuals doing the manual act of fishing, but also to those for whose profit the fish are taken.

But considering that the treaty does not intend to grant to individual persons or to a class of persons the liberty to take fish in certain waters 'in common,' that is to say in company, with individual British subjects, in the sense that no law could forbid British subjects to take service on American fishing-ships; (2) that the treaty intends to secure to the United States a share of the fisheries designated therein, not only in the interest of a certain class of individuals, but also in the interest of both the United States and Great Britain, as appears from the evidence and notably from the correspondence between Mr. Adams and Lord Bathurst in 1815; (3) that the inhabitants of the United States do not derive the liberty to take fish directly from the treaty, but from the United States Government as party to the treaty with Great Britain and moreover exercising the right to regulate the conditions under which its inhabitants may enjoy the granted liberty; (4) that it is in the interest of the inhabitants of the United States that the fishing liberty granted to them be restricted to exercise by them and removed from the enjoyment of other aliens not entitled by this treaty to participate in the fisheries; (5) that such restrictions have been throughout enacted in the British Statute of June 15, 1819, and that of June 3, 1824, to this effect, that no alien or stranger whatsoever shall fish in the waters designated therein, except in so far as by treaty thereto entitled, and that this exception will, in virtue of the treaty of 1818, as hereinabove interpreted by this Award, exempt from these statutes American fishermen fishing by the agency of non-inhabitant aliens employed in their service; (6) that the treaty does not affect the sovereign right of Great Britain as to aliens, non-inhabitants of the United States, nor the right of Great Britain to regulate the engagement of British subjects, while these aliens or British subjects are on British territory.

Now, therefore, in view of the preceding considerations this Tribunal is of opinion that the inhabitants of the United States while exercising the liberties referred to in the said article have a right to employ, as members of the fishing crews of their vessels, persons not inhabitants of the United States.

But in view of the preceding considerations the Tribunal, to prevent any misunderstanding as to the effect of its Award, expresses the opinion that non-inhabitants employed as members of the fishing crews of United States vessels derive no benefit or immunity from the treaty and it is so decided and awarded.

## QUESTION III.

Can the exercise by the inhabitants of the United States of the liberties referred to in the said article be subjected, without the consent of the United States, to the requirements of entry or report at custom-houses or the payment of light or harbour or other dues, or to any other similar requirement or condition or exaction?

The Tribunal is of opinion as follows:—

It is obvious that the liberties referred to in this question are those that relate to taking fish and to drying and curing fish on certain coasts as prescribed in the treaty of October 20, 1818. The exercise of these liberties by the inhabitants of the United States in the prescribed waters to which they relate, has no reference to any commercial privileges which may or may not attach to such vessels by reason of any supposed authority outside the treaty, which itself confers no commercial privileges whatever upon the inhabitants of the United States or the vessels in which they may exercise the fishing liberty. It follows, therefore, that when the inhabitants of the United States are not seeking to exercise the commercial privileges accorded to trading-vessels for the vessels in which they are exercising the granted liberty of fishing, they ought not to be subjected to requirements as to report and entry at custom-houses that are only appropriate to the exercise of commercial privileges. The exercise of the fishing liberty is distinct from the exercise of commercial or trading privileges and it is not competent for Great Britain or her colonies to impose upon the former exactions only appropriate to the latter. The reasons for the requirements enumerated in the case of commercial vessels, have no relation to the case of fishing-vessels.

We think, however, that the requirement that American fishing-vessels should report, if proper conveniences and an opportunity for doing so are provided, is not unreasonable or inappropriate. Such a report while serving the purpose of a notification of the presence of a fishing-vessel in the treaty waters for the purpose of exercising the treaty liberty, while it gives an opportunity for a proper surveillance of such vessel by revenue officers, may also serve to afford to such fishing-vessel protection from interference in the exercise of the fishing liberty. There should be no such requirement, however, unless reasonably convenient opportunity therefor be afforded in person or by telegraph, at a custom-house or to a customs official.

The Tribunal is also of opinion that light and harbour dues, if not imposed on Newfoundland fishermen, should not be imposed on American fishermen while exercising the liberty granted by the treaty. To impose such dues on American fishermen only would constitute an unfair discrimination between them and Newfoundland fishermen and one inconsistent with the liberty granted to American fishermen to take fish, &c., 'in common with the subjects of his Britannic Majesty.'

Further, the Tribunal considers that the fulfilment of the requirement as to report by fishing-vessels on arrival at the fishery would be greatly facilitated in the interests of both parties by the adoption of a system of registration, and distinctive marking of the fishing-boats of both Parties, analogous to that established by Articles V to XIII, inclusive of the International Convention signed at The Hague 8th May, 1882, for the regulation of the North Sea Fisheries.

The Tribunal therefore decides and awards as follows:—

The requirement that an American fishing vessels should report, if proper conveniences for doing so are at hand, is not unreasonable, for the reasons stated in the foregoing opinion. There should be no such requirement, however, unless there be reasonably convenient opportunity afforded to report in person or by telegraph, either at a customhouse or to a customs official.

But the exercise of the fishing liberty by the inhabitants of the United States should not be subjected to the purely commercial formalities of report, entry and clearance at a customhouse, nor to light, harbour or other dues not imposed upon Newfoundland fishermen.

## QUESTION IV.

Under the provision of the said article that the American fishermen shall be admitted to enter certain bays or harbours for shelter, repairs, wood, or water, and for no other purpose whatever, but that they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein or in any other manner whatever abusing the privileges thereby reserved to them, is it permissible to impose restrictions making the exercise of such privileges conditional upon the payment of light, harbour or other dues, or entering or reporting at customhouses or any similar conditions?

The Tribunal is of opinion that the provision in the first article of the treaty of October 20, 1818, admitting American fishermen to enter certain bays or harbours for shelter, repairs, wood and water, and for no other purpose whatever, is an exercise in large measure of those duties of hospitality and humanity which all civilized nations impose upon themselves and expect the performance of from others. The enumerated purposes for which entry is permitted all relate to the exigencies in which those who pursue their perilous calling on the sea may be involved. The proviso which appears in the first article of the said treaty immediately after the so-called renunciation clause, was doubtless due to a recognition by Great Britain of what was expected from the humanity and civilization of the then leading commercial nation of the world. To impose restrictions making the exercise of such privileges conditional upon the payment of light, harbour or other dues, or entering and reporting at customhouses, or any similar conditions would be inconsistent with the grounds upon which such privileges rest and therefore is not permissible.

And it is decided and awarded that such restrictions are not permissible.

It seems reasonable, however, in order that these privileges accorded by Great Britain on these grounds of hospitality and humanity should not be abused, that the American fishermen entering such bays for any of the four purposes aforesaid and remaining more than forty-eight hours therein, should be required, if thought necessary by Great Britain or the Colonial Government, to report, either in person or by telegraph, at a customhouse or to a customs official, if reasonably convenient opportunity therefor is afforded.

And it is so decided and awarded.

## QUESTION V.

From where must be measured the "three marine miles of any of the coasts, bays, creeks, or harbours" referred to in the said article?

In regard to this question, Great Britain claims that the renunciation applies to all bays generally and

The United States contend that it applies to bays of a certain class or condition.

Now, considering that the treaty used the general term "bays" without qualification, the Tribunal is of opinion that these words of the treaty must be interpreted in a general sense as applying to every bay on the coast in question that might be reasonably supposed to have been considered as a bay by the negotiators of the treaty under the general conditions then prevailing, unless the United States can adduce satisfactory proof that any restrictions or qualifications of the general use of the term were or should have been present to their minds.

And for the purpose of such proof the United States contend:—

1. That while a State may renounce the treaty right to fish in foreign territorial waters, it cannot renounce the natural right to fish on the high seas.

But the Tribunal is unable to agree with this contention. Because though a State cannot grant rights on the high seas it certainly can abandon the exercise of its right to fish on the high seas within certain definite limits. Such an abandonment was made with respect to their fishing rights in the waters in question by France and Spain in 1763. By a convention between the United Kingdom and the United States in 1846, the two countries assumed ownership over waters in Fuca Straits at distances from the shore as great as 17 miles.

The United States contend, moreover:—

2. That by the use of the term "liberty to fish," the United States manifested the intention to renounce the liberty in the waters referred to only in so far as that liberty was dependent upon or derived from a concession on the part of Great Britain, and not to renounce the right to fish in those waters where it was enjoyed by virtue of their natural right as an independent State.

But the Tribunal is unable to agree with this contention:—

(*a.*) Because the term "liberty to fish" was used in the renunciatory clause of the treaty of 1818 because the same term had been previously used in the treaty of 1783 which gave the liberty; and it was proper to use in the renunciation clause the same term that was used in the grant with respect to the object of the grant; and, in view of the terms of the grant, it would have been improper to use the term "right" in the renunciation. Therefore the conclusion drawn from the use of the term "liberty" instead of the term "right" is not justified;

(*b.*) Because the term "liberty" was a term properly applicable to the renunciation which referred not only to fishing in the territorial waters, but also to drying and curing on the shore. This latter right was undoubtedly held under the provisions of the treaty and was not a right accruing to the United States by virtue of any principle of international law.

3. The United States also contend that the term "bays of His Britannic Majesty's Dominions" in the renunciatory clause must be read as including only those bays which were under the territorial sovereignty of Great Britain.

But the Tribunal is unable to accept this contention:—

(*a.*) Because the description of the coast on which the fishery is to be exercised by the inhabitants of the United States is expressed throughout the treaty of 1818 in geographical terms and not by reference to political control; the treaty describes the coast as contained between capes.

(*b.*) Because to express the political concept of dominion as equivalent to sovereignty, the word "dominion" in the singular would have been an adequate term and not "dominions" in the plural; this latter term having a recognized and well settled meaning as descriptive of those portions of the earth which owe political allegiance to His Majesty, *e.g.*, "His Britannic Majesty's Dominions beyond the Seas."

4. It has been further contended by the United States that the renunciation applies only to bays six miles or less in width "inter fauces terræ," those bays only being territorial bays because the three mile rule is, as shown by this treaty, a principle of international law applicable to coasts and should be strictly and systematically applied to bays.

But the Tribunal is unable to agree with this contention:—

(*a.*) Because admittedly the geographical character of a bay contains conditions which concern the interests of the territorial sovereign to a more intimate and important extent than do those connected with the open coast. Thus conditions of national and territorial integrity, of defence, of commerce and of industry are all vitally concerned with the control of the bays penetrating the national coast line. This interest varies, speaking generally, in proportion to the penetration inland of the bay; but as no principle of international law recognizes any specified relation between the concavity of the bay and the requirements for control by the territorial sovereignty, this Tribunal is unable to qualify by the application of any new principle its interpretation of the treaty of 1818 as excluding bays in general from the strict and systematic application of the three mile rule; nor can this Tribunal take cognizance in this connection of other principles concerning the territorial sovereignty over bays, such as ten mile or twelve mile limits of exclusion based on international acts subsequent to the treaty of 1818 and relating to coasts of a different configuration and conditions of a different character;

(*b.*) Because the opinion of jurists and publicists quoted in the proceedings conduces to the opinion that, speaking generally, the three mile rule should not be strictly and systematically applied to bays;

(*c.*) Because the treaties referring to these coasts, antedating the treaty of 1818, made special provisions as to bays, such as the treaties of 1686 and 1713 between Great Britain and France, and especially the treaty of 1778 between the United States and France. Likewise's Jay's Treaty of 1794, article 25, distinguished bays from the space "within cannon-shot of the coast" in regard to the right of seizure in times of war. If the proposed treaty of 1806 and the treaty of 1818 contained no disposition to that effect, the explanation may be found in the fact that the first extended the marginal belt to five miles, and also in the circumstance that the American proposition of 1818 in that respect was not limited to "bays," but extended to "chambers formed by headlands" and to "five marine miles from a right line from one headland to another," a proposition which in the times of the Napoleonic wars would have affected to a very large extent the operations of the British navy;

(*d.*) Because it has not been shown by the documents and correspondence in evidence here that the application of the three mile rule to bays was present to the minds of the negotiators in 1818, and they could not reasonably have been expected either to presume it or to provide against its presumption;

(*e.*) Because it is difficult to explain the words in Article III of the treaty under interpretation "country . . . together with its bays, harbours and creeks" otherwise than that all bays without distinction as to their width were, in the opinion of the negotiators, part of the territory;

(*f.*) Because from the information before this Tribunal it is evident that the three mile rule is not applied to bays strictly or systematically either by the United States or by any other Power;

(*g.*) It has been recognized by the United States that bays stand apart, and that in respect of them territorial jurisdiction may be exercised farther than the marginal belt in the case of Delaware Bay by the report of the United States Attorney-General of May 19th, 1793; and the letter of Mr. Jefferson to Mr. Genet of November 8th, 1793, declares the bays of the United States generally to be "as being landlocked, within the body of the United States."

> 5. In this latter regard it is further contended by the United States that such exceptions only should be made from the application of the three mile rule to bays as are sanctioned by conventions and established usage; that all exceptions for which the United States of America were responsible are so sanctioned; and that His Majesty's Government are unable to provide evidence to show that the bays concerned by the treaty of 1818 could be claimed as exceptions on these grounds either generally, or, except possibly in one or two cases, specifically.

But the Tribunal, while recognizing that conventions and established usage might be considered as the basis for claiming as territorial those bays which on this ground might be called historic bays, and that such claim should be held valid in the absence of any principle of international law on the subject, nevertheless is unable to apply this, *a contrario*, so as to subject the bays in question to the three mile rule as desired by the United States:—

(*a.*) Because Great Britain has during this controversy asserted a claim to these bays generally, and has enforced such claim specifically in statutes or otherwise, in regard to the more important bays, such as Chaleurs, Conception and Miramichi;

(*b.*) Because neither should such relaxations of this claim, as are in evidence, be construed as renunciations of it; nor should omissions to enforce the claim in regard to bays as to which no controversy arose be so construed. Such a construction by this tribunal would not only be intrinsically inequitable, but internationally injurious, in that it would discourage conciliatory diplomatic transactions and encourage the assertion of extreme claims in their fullest extent;

(*c.*) Because any such relaxations in the extreme claim of Great Britain in its international relations are compensated by recognitions of it in the same sphere by the United States; notably in relations with France, for instance in 1823, when they applied to Great Britain for the protection of their fishery in the bays on the western coast of Newfoundland, whence they had been driven by French war-vessels on the ground of the pretended exclusive right of the French. Though they never asserted that their fishermen had been disturbed within the three mile zone, only alleging that the disturbance had taken place in the bays, they claimed to be protected by Great Britain for having been molested in waters which were, as Mr. Rush stated, "clearly within the jurisdiction and sovereignty of Great Britain."

6. It has been contended by the United States that the words "coasts, bays, creeks or harbours" are here used only to express different parts of the coast, and are intended to express and be equivalent to the word "coast," whereby the three marine miles would be measured from the sinuosities of the coast and the renunciation would apply only to the waters of bays within three miles.

But the Tribunal is unable to agree with this contention:

(*a.*) Because it is a principle of interpretation that words in a document ought not to be considered as being without any meaning if there is not specific evidence to that purpose and the interpretation referred to would lead to the consequence, practically, of reading the words "bays, creeks and harbours" out of the treaty; so that it would read "within three miles of

any of the coasts" including therein the coasts of the bays and harbours;

(*b.*) Because the word "therein" in the proviso—"restrictions necessary to prevent their taking, drying or curing fish therein"—can refer only to "bays," and not to the belt of three miles along the coast; and can be explained only on the supposition that the words "bays, creeks and harbours" are to be understood in their usual ordinary sense and not in an artificially restricted sense of bays within the three mile belt;

(*c.*) Because the practical distinction for the purpose of this fishery between coasts and bays and the exceptional conditions pertaining to the latter has been shown from the correspondence and the documents in evidence, especially the treaty of 1783, to have been in all probability present to the minds of the negotiators of the treaty of 1818;

(*d.*) Because the existence of this distinction is confirmed in the same article of the treaty by the proviso permitting the United States fishermen to enter bays for certain purposes;

(*e.*) Because the word "coasts" is used in the plural form, whereas the contention would require its use in the singular;

(*f.*) Because the Tribunal is unable to understand the term "bays" in the renunciatory clause in other than its geographical sense, by which a bay is to be considered as an indentation of the coast, bearing a configuration of a particular character, easy to determine specifically, but difficult to describe generally.

The negotiators of the treaty of 1818 did probably not trouble themselves with subtle theories concerning the notion of "bays;" they most probably thought that everybody would know what was a bay. In this popular sense the term must be interpreted in the treaty. The interpretation must take into account all the individual circumstances which, for any one of the different bays, are to be appreciated; the relation of its width to the length of penetration inland; the possibility and the necessity of its being defended by the State in whose territory it is indented; the special value which it has for the industry of the inhabitants of its shores; the distance which it is secluded from the highways of nations on the open sea and other circumstances not possible to enumerate in general.

For these reasons the Tribunal decides and awards:—

In case of bays, the three marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the three marine miles are to be measured following the sinuosities of the coast.

But considering the Tribunal cannot overlook that this answer to Question V, although correct in principle, and the only one possible in view of the want of a sufficient basis for a more concrete answer is not entirely satisfactory as to its practical applicability, and that it leaves room for doubts and differences in practice: Therefore the Tribunal considers it its duty to render the decision more practicable, and to remove the danger of future differences by adjoining to it a recommendation in virtue of the responsibilities imposed by Article IV of the Special Agreement.

Considering, moreover, that in treaties with France, with the North German Confederation and the German Empire, and likewise in the North Sea Convention, Great Britain has adopted for similar cases the rule that only bays of ten miles width should be considered as those wherein the fishing is reserved to nationals: And that in the course of the negotiations between Great Britain and the United States a similar rule has been on various occasions proposed and adopted by Great Britain in instructions to the naval officers stationed on these coasts: And that though these circumstances are not sufficient to constitute this a principle of international law, it seems reasonable to propose this rule with certain exceptions, all the more that this rule, with such exceptions, has already formed the basis of an agreement between the two Powers.

Now, therefore, this Tribunal, in pursuance of the provisions of Article IV, hereby recommends for the consideration and acceptance of the High Contracting Parties the following rules and method of procedure for determining the limits of the bays hereinbefore enumerated:—

1.

In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

2.

In the following bays, where the configuration of the coast and the local climatic conditions are such that foreign fishermen, when within the geographic headlands, might reasonably and bona fide believe themselves on the high seas, the limits of exclusion shall be drawn in each case between the headlands hereinafter specified as being those at and within which such fishermen might be reasonably expected to recognize the bay under average conditions.

For the Baie des Chaleurs the line from the light at Birch Point on Miscou Island to Macquereau Point Light; for the Bay of Miramichi, the line from the light at Point Escuminac to the light on the eastern point of Tabusintac Gully; for Egmont Bay, in Prince Edward Island, the line from the light at Cape Egmont to the light at West Point; and off St. Ann's Bay, in the province of Nova Scotia, the line from the light at Point Anconi to the nearest point on the opposite shore of the mainland.

For Fortune Bay, in Newfoundland, the line from Connaigre Head to the light on the southeasterly end of Brunet Island, thence to Fortune Head.

For or near the following bays the limits of exclusion shall be three marine miles seaward from the following lines, namely:—

For or near Barrington Bay, in Nova Scotia, the line from the light on Stoddart Island to the light on the south point of Cape Sable, thence to the light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island light to Green Island light, thence to Point Rouge; for Mira Bay, the line from the light on the east point of Scatari Island to the northeasterly point of Cape Morien; and at Placentia Bay, in Newfoundland, the line from Latine Point, on the eastern mainland shore, to the most southerly point of Red Island, thence by the most southerly point of Marasheen Island to the mainland.

Long Island and Bryer Island on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that nothing in these rules refers either to the Bay of Fundy considered as a whole apart from its bays and creeks or as to the innocent passage through the Gut of Canso, which were excluded by the agreement made by exchange of notes between Mr. Bacon and Mr. Bryce, dated

February 21st, 1909, and March 4th, 1909; or to Conception Bay, which was provided for by the decision of the Privy Council in the case of the Direct United States Cable Company v. the Anglo-American Telegraph Company, in which decision the United States have acquiesced.

## QUESTION VI.

Have the inhabitants of the United States the liberty under the said article or otherwise, to take fish in the bays, harbours and creeks on that part of the southern coast of Newfoundland which extends from Cape Ray to Rameau Islands, or on the western and northern coasts of Newfoundland from Cape Ray to Quirpon Islands, or on the Magdalen Islands?

> In regard to this question, it is contended by the United States that the inhabitants of the United States have the liberty under Article I of the treaty of taking fish in the bays, harbours and creeks on that part of the southern coast of Newfoundland which extends from Cape Ray to Rameau Islands, or on the western and northern coasts of Newfoundland from Cape Ray to Quirpon Islands and on the Magdalen Islands. It is contended by Great Britain that they have no such liberty.

Now considering that the evidence seems to show that the intention of the parties to the treaty of 1818, as indicated by the records of the negotiations and by the subsequent attitude of the Governments was to admit the United States to such fishery, this Tribunal is of opinion that it is incumbent on Great Britain to produce satisfactory proof that the United States are not so entitled under the treaty.

For this purpose Great Britain points to the fact that whereas the treaty grants to American fishermen liberty to take fish "on the coasts, bays, harbours and creeks from Mount Joly on the southern coast of Labrador," the liberty is granted to the "coast" only of Newfoundland and to the "shore" only of the Magdalen Islands; and argues that evidence can be found in the correspondence submitted indicating an intention to exclude Americans from Newfoundland bays on the treaty coast, and that no value would have been attached at that time by the United States Government to the

liberty of fishing in such bays because there was no cod fishery there as there was in the bays of Labrador.

But the Tribunal is unable to agree with this contention:

(a.) Because the words "part of the southern coast . . . from . . . to" and the words "western and northern coast . . . from . . . to," clearly indicate one uninterrupted coast-line; and there is no reason to read into the words "coasts" a contradistinction to bays, in order to exclude bays. On the contrary, as already held in the answer to Question V, the words "liberty, forever, to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland hereabove described," indicate that in the meaning of the treaty, as in all the preceding treaties relating to the same territories, the words coast, coasts, harbours, bays, &c., are used, without attaching to the word "coast" the specific meaning of excluding bays. Thus in the provision of the treaty of 1783 giving liberty "to take fish on such part of the coast of Newfoundland as British fishermen shall use," the word coast necessarily includes bays, because if the intention had been to prohibit the entering of the bays for fishing the following words "but not to dry or cure the same on that island," would have no meaning. The contention that in the treaty of 1783 the word "bays" is inserted lest otherwise Great Britain would have had the right to exclude the Americans to the three mile line, is inadmissible, because in that treaty that line is not mentioned;

(*b.*) Because the correspondence between Mr. Adams and Lord Bathurst also shows that during the negotiations for the treaty the United States demanded the former rights enjoyed under the treaty of 1783, and that Lord Bathurst in the letter of 30th October, 1815, made no objection to granting those "former rights" "placed under some modifications," which latter did not relate to the right of fishing in bays, but only to the "preoccupation of British harbours and creeks by the fishing vessels of the United States and the forcible exclusion of British subjects where the fishery might be most advantageously conducted," and "to the clandestine introduction of prohibited goods into the British colonies." It may be therefore assumed that the word "coast" is used in both treaties in the same sense, including bays;

(*c.*) Because the treaty expressly allows the liberty to dry and cure in the unsettled bays, &c., of the southern part of the

coast of Newfoundland, and this shows that, à fortiori, the taking of fish in those bays is also allowed; because the fishing liberty was a lesser burden than the grant to cure and dry, and the restrictive clauses never refer to fishing in contradistinction to drying, but always to drying in contradistinction to fishing. Fishing is granted without drying, never drying without fishing;

(*d.*) Because there is not sufficient evidence to show that the enumeration of the component parts of the coast of Labrador was made in order to discriminate between the coast of Labrador and the coast of Newfoundland;

(*e.*) Because the statement that there is no cod-fish in the bays of Newfoundland and that the Americans only took interest in the cod-fishery is not proved; and evidence to the contrary is to be found in Mr. John Adams' Journal of Peace Negotiations of November 25, 1782;

(*f.*) Because the treaty grants the right to take fish of every kind, and not only cod-fish;

(*g.*) Because the evidence shows that, in 1823, the Americans were fishing in Newfoundland bays and that Great Britain when summoned to protect them against expulsion therefrom by the French did not deny their right to enter such bays.

Therefore this Tribunal is of opinion that American inhabitants are entitled to fish in the bays, creeks and harbours of the treaty coasts of Newfoundland and the Magdalen Islands and it is so decided and awarded.

## QUESTION VII.

Are the inhabitants of the United States whose vessels resort to the treaty coasts for the purpose of exercising the liberties referred to in Article I of the treaty of 1818, entitled to have for those vessels, when duly authorized by the United States in that behalf, the commercial privileges on the treaty coasts accorded by agreement or otherwise to United States trading vessels generally?

Now assuming that commercial privileges on the treaty coasts are accorded by agreement or otherwise to United States trading vessels generally, without any exception, the inhabitants of the United States, whose vessels resort to the same coasts for the purpose of exercising the liberties referred to in Article I of the treaty of 1818, are entitled to have for

those vessels when duly authorized by the United States in that behalf, the above-mentioned commercial privileges, the treaty containing nothing to the contrary. But they cannot at the same time and during the same voyage exercise their treaty rights and enjoy their commercial privileges, because treaty rights and commercial privileges are submitted to different rules, regulations and restraints.

For these reasons this Tribunal is of opinion that the inhabitants of the United States are so entitled in so far as concerns this treaty, there being nothing in its provisions to disentitle them, provided the treaty liberty of fishing and the commercial privileges are not exercised concurrently, and it is so decided and awarded.

Done at The Hague, in the Permanent Court of Arbitration, in triplicate original, September 7th, 1910.

H. LAMMASCH.
A. F. DE SAVORNIN LOHMAN.
GEORGE GRAY.
C. FITZPATRICK.
LUIS M. DRAGO.

Signing the Award, I state pursuant to Article IX, clause 2, of the Special Agreement, my dissent from the majority of the Tribunal in respect to the considerations and enacting part of the Award as to Question V.

Grounds for this dissent have been filed at the International Bureau of the Permanent Court of Arbitration.

LUIS M. DRAGO.

*Grounds for the Dissent to the Award on Question 5 by Dr. Luis M. Drago.*

Counsel for Great Britain have very clearly stated that, according to their contention, the territoriality of the bays referred to in the treaty of 1818 is immaterial, because, whether they are or are not territorial the United States should be excluded from fishing in them by the terms of the renunciatory clause, which simply refers to "bays, creeks or harbours of His Britannic Majesty's dominions," without any other qualification or description. If that were so, the necessity might arise of discussing whether or not a nation has the right to exclude another by contract or otherwise from any portion

or portions of the high seas. But in my opinion the Tribunal need not concern itself with such general question, the wording of the treaty being clear enough to decide the point at issue.

Article 1 begins with the statement that differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry and cure fish on "certain coasts, bays, harbours and creeks of His Britannic Majesty's dominions in America," and then proceeds to locate the specific portions of the coast with its corresponding indentations, in which the liberty of taking, drying and curing fish should be exercised. The renunciatory clause, which the Tribunal is called upon to construe, runs thus:—"And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America not included within the above mentioned limits." This language does not lend itself to different constructions. If the bays in which the liberty has been renounced are those "of His Britannic Majesty's dominions in America," they must necessarily be territorial bays, because, in so far as they are not so considered, they should belong to the high seas, and consequently form no part of His Britannic Majesty's dominions, which, by definition, do not extend to the high seas. It cannot be said, as has been suggested, that the use of the word "dominions," in the plural, implies a different meaning than would be conveyed by the same term as used in the singular, so that, in the present case, "the British dominions in America" ought to be considered as a mere geographical expression, without reference to any right of sovereignty or "*dominion.*" It seems to me, on the contrary, that "dominions," or "possessions," or "estates," or such other equivalent terms, simply designate the places over which the "dominion" or property rights are exercised. Where there is no possibility of appropriation or dominion, as on the high seas, we cannot speak of dominions. The "dominions" extend exactly to the point which the "dominion" reaches; they are simply the actual or physical thing over which the abstract power or authority, the *right*, as given to the proprietor or the ruler, applies. The interpretation as to the territoriality of the bays as mentioned in the renunciatory clause of the treaty appears stronger when considering that the United States specifically

renounced the "liberty," not the "right," to fish or to cure and dry fish. "The United States renounce, forever, any *liberty* heretofore enjoyed or claimed, to take, cure or dry fish on, or within three marine miles of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America." It is well known that the negotiators of the treaty of 1783 gave a very different meaning to the terms *liberty* and *right,* as distinguished from each other. In this connection, Mr. Adams' journal may be recited. To this journal the British Counter-Case refers in the following terms:—"From an entry in Mr. Adams' journal it appears that he drafted an article by which he distinguished the *right* to take fish (both on the high seas and on the shores) and the *liberty* to take and cure fish on the land. But on the following day he presented to the British negotiators a draft in which he distinguishes between the '*right*' to take fish on the high seas, and the '*liberty*' to take fish on the '*coasts,*' and to dry and cure fish on the land. . . . The British Commissioner called attention to the distinction thus suggested by Mr. Adams, and proposed that the word *liberty* should be applied to the privileges both on the water and on the land. Mr. Adams thereupon rose up and made a vehement protest, as is recorded in his diary, against the suggestion that the United States enjoyed the fishing on the banks of Newfoundland by any other title than that of *right.* . . . The application of the word *liberty* to the coast fishery was left as Mr. Adams proposed." "The incident," proceeds the British Case, "is of importance, since it shows that the difference between the two phrases was intentional" (British Counter-Case, p. 17). And the British Argument emphasizes again the difference. "More cogent still is the distinction between the words *right* and *liberty.* The word *right* is applied to the sea fisheries, and the word *liberty* to the shore fisheries. The history of the negotiations shows that this distinction was advisedly adopted." If, then, a *liberty* is a grant and not the recognition of a *right,* if, as the British Case, Counter-Case, and Argument recognise, the United States had the right to fish in the open sea in contradistinction with the *liberty* to fish near the shores or portions of the shores, and if what has been renounced in the words of the treaty is the *liberty* to fish on or within three miles of the bays, creeks and harbours of His Britannic Majesty's dominions, it clearly follows that such *liberty* and the correspond-

ing renunciation refers only to such portions of the bays which were under the sovereignty of Great Britain and not to such other portions, if any, as form part of the high seas.

And thus it appears that, far from being immaterial, the territoriality of bays is of the utmost importance. The treaty not containing any rule or indication upon the subject, the Tribunal cannot help a decision as to this point, which involves the second branch of the British contention that all so-called bays are not only geographical, but wholly territorial as well, and subject to the jurisdiction of Great Britain. The situation was very accurately described on almost the same lines as above stated by the British memorandum sent in 1870 by the Earl of Kimberley to Governor Sir John Young: "The right of Great Britain to exclude American fishermen from waters within three miles of the coasts is unambiguous and, it is believed, uncontested. But there appears to be some doubt what are the waters described as within three miles of bays, creeks or harbours. When a bay is less than six miles broad its waters are within the three-mile limit, and therefore clearly within the meaning of the treaty; *but when it is more than that breadth, the question arises whether it is a bay of Her Britannic Majesty's dominions.* This is a question which has to be considered in each particular case with regard to international law and usage. When such a bay is not a bay of Her Majesty's dominions, the American fishermen shall be entitled to fish in it, except within three marine miles of the "coast"; when it is a bay of Her Majesty's dominions, they will not be entitled to fish within three miles of it, that it is to say (it is presumed), within three miles of a line drawn from headland to headland." (United States Case Appendix, p. 629.)

Now, it must be stated in the first place that there does not seem to exist any general rule of international law which may be considered final, even in what refers to the marginal belt of territorial waters. The old rule of the cannon-shot, crystallized into the present three marine miles measured from low water mark, may be modified at a later period, inasmuch as certain nations claim a wider jurisdiction, and an extension has already been recommended by the Institute of International Law. There is an obvious reason for that. The marginal strip of territorial waters, based originally on the cannon-shot, was founded on the necessity of the riparian State to protect itself from outward attack, by providing something in the

nature of an insulating zone, which very reasonably should be extended with the accrued possibility of offence due to the wider range of modern ordnance. In what refers to bays it has been proposed as a general rule (subject to certain important exceptions) that the marginal belt of territorial waters should follow the sinuosities of the coast more or less in the manner held by the United States in the present contention, so that the marginal belt being of three miles, as in the treaty under consideration, only such bays should be held as territorial as have an entrance not wider than six miles. (See Sir Thomas Barclay's report to Institute of International Law, 1894, p. 129, in which he also strongly recommends these limits.) This is the doctrine which Westlake, the eminent English writer on international law, has summed up in very few words: "As to bays," he says, "if the entrance to one of them is not more than twice the width of the littoral sea enjoyed by the country in question—that is, not more than six sea miles in the ordinary case, eight in that of Norway, and so forth—there is no access from the open sea to the bay except through the territorial water of that country, and the inner part of the bay will belong to that country, no matter how widely it may expand. The line drawn from shore to shore at the part where, in approaching from the open sea, the width first contracts to that mentioned, will take the place of the line of low water, and the littoral sea belonging to the State will be measured outwards from that line to the distance of three miles or more proper to the State;" (Westlake, vol. i, p. 187). But the learned author takes care to add: "But although this is the general rule, it often meets with an exception in the case of bays which penetrate deep into the land and are called gulfs. Many of these are recognized by immemorial usage as territorial sea of the States into which they penetrate, notwithstanding that their entrance is wider than the general rule for bays would give as a limit for such appropriation." And he proceeds to quote as examples of this kind the Bay of Conception in Newfoundland, which he considers as wholly British, Chesapeake and Delaware Bays, which belong to the United States, and others. (*Ibid.*, p. 188.) The Institute of International Law, in its annual meeting of 1894, recommended a marginal belt of six miles for the general line of the coast, and as a consequence established that for bays the line should be drawn up across at the nearest portion of the entrance toward

the sea where the distance between the two sides does not exceed twelve miles. But the learned association very wisely added a proviso to the effect " that bays should be so considered and measured *unless a continuous and established usage* has sanctioned a greater breadth." Many great authorities are agreed as to that. Counsel for the United States proclaimed the right to the exclusive jurisdiction of certain bays, no matter what the width of their entrance should be, when the littoral nation has asserted its right to take it into their jurisdiction upon reasons which go always back to the doctrine of protection. Lord Blackburn, one of the most eminent of English judges, in delivering the opinion of the Privy Council about Conception Bay, in Newfoundland, adhered to the same doctrine when he asserted the territoriality of that branch of the sea, giving as a reason for such finding, " that the British Government for a long period had exercised dominion over this bay, and its claim had been acquiesced in by other nations, so as to show that the bay had been for a long time occupied exclusively by Great Britain, a circumstance which, in the tribunals of any country, would be very important." " And moreover," he added, " the British Legislature has, by Acts of Parliament, declared it to be part of the British territory and part of the country made subject to the legislation of Newfoundland." *(Direct United States Cable Company v. the Anglo-American Telegraph Company,* Law Reports, 2 Appeal Cases, 374.)

So it may be safely asserted that a certain class of bays, which might be properly called the historical bays, such as Chesapeake Bay and Delaware Bay, in North America, and the great estuary of the River Plate, in South America, form a class distinct and apart, and undoubtedly belong to the littoral country, whatever be their depth of penetration and the width of their months, when such country has asserted its sovereignty over them, and particular circumstances, such as geographical configuration, immemorial usage, and, above all, the requirements of self-defence, justify such a pretension. The right of Great Britain over the bays of Conception, Chaleur, and Miramichi are of this description. In what refers to the other bays, as might be termed the common, ordinary bays, indenting the coasts, over which no special claim or assertion of sovereignty has been made, there does not seem to be any other general principle to be applied than the

one resulting from the custom and usage of each individual nation, as shown by their treaties and their general and time-honoured practice.

The well-known words of Bynkershoek might be very appropriately recalled in this connection when so many and divergent opinions and authorities have been recited: "The common law of nations," he says, "can only be learnt from reason and custom. I do not deny that authority may add weight to reason, but I prefer to seek it in a constant custom of concluding treaties in one sense or another, and in examples that have occurred in one country or another." (*Quæstiones Juris Publici,* vol. i, cap. 3.)

It is to be borne in mind in this respect that the Tribunal has been called upon to decide, as the subject matter of this controversy, the construction to be given to the fishery treaty of 1818 between Great Britain and the United States. And so it is that from the usage and the practice of Great Britain in this and other like fisheries, and from treaties entered into by them with other nations as to fisheries, may be evolved the right interpretation to be given to the particular convention which has been submitted. In this connection the following treaties may be recited:—

Treaty between Great Britain and France, 2nd August, 1839. It reads as follows:—

"Article 9. The subjects of Her Britannic Majesty shall enjoy the exclusive right of fishery within the distance of three miles from low water mark along the whole extent of the coasts of the British Islands.

"It is agreed that the distance of three miles fixed as the general limit for the exclusive right of fishery upon the coasts of the two countries shall, with respect to bays, the mouths of which do not exceed ten miles in width, be measured from a straight line drawn from headland to headland.

"Article 10. It is agreed and understood that the miles mentioned in the present convention are geographical miles, whereof 60 make a degree of latitude." (Hertslet's Treaties and Conventions, vol. v, p. 89.)

Regulations between Great Britain and France, 24th May, 1843:—

"Art. 2. The limits within which the general right of fishery is exclusively reserved to the subjects of the two king-

doms respectively are fixed (with the exception of those in Granville Bay) at 3 miles distance from low water mark.

"With respect to bays, the mouths of which do not exceed ten miles in width, the 3 mile distance is measured from a straight line drawn from headland to headland.

"Art. 3. The miles mentioned in the present regulations are geographical miles, of which 60 make a degree of latitude." (Hertslet, vol, vi, p. 416.)

Treaty between Great Britain and France, November 11, 1867:—

"Art. 1. British fishermen shall enjoy the exclusive right of fishery within the distance of 3 miles from low-water mark, along the whole extent of the coasts of the British Islands.

"The distance of 3 miles fixed as the general limit for the exclusive right of fishery upon the coasts of the two countries shall with respect to bays, the mouths of which do not exceed ten miles in width be measured from a straight line drawn from headland to headland.

"The miles mentioned in the present convention are geographical miles, whereof 60 make a degree of latitude." (Hertslet's Treaties, vol. xii, p. 1126, British Case Appendix, p. 38.)

Great Britain and North German Confederation. British notice to fishermen by the Board of Trade. Board of Trade, November, 1868:—

"Her Majesty's Government and the North German Confederation having come to an agreement respecting the regulations to be observed by British fishermen fishing off the coasts of the North German Confederation, the following notice is issued for the guidance and warning of British fishermen:—

"1. The exclusive fishery limits of the German Empire are designated by the Imperial Government as follows:—That tract of the sea which extends to a distance of 3 sea miles from the extremest limits which the ebb leaves dry of the German North Sea Coast of the German islands or flats lying before it, as well as those bays and incurvations of the coast which are ten sea miles or less in breadth reckoned from the extremest points of the land and the flats, must be considered as under the territorial sovereignty of North Germany." (Hertslet's Treaties, vol. xiv, p. 1055.)

Great Britain and German Empire. British Board of Trade, December, 1874.

(Same recital referring to an arrangement entered into between Her Britannic Majesty and the German Government.)

Then the same articles follow with the alteration of the words "German Empire" for "North Germany." (Hertslet, vol. xiv, p. 1058.)

Treaty between Great Britain, Belgium, Denmark, France, Germany and the Netherlands for regulating the police of the North Sea Fisheries, May 6, 1882:—

"2. Les pêcheurs nationaux jouiront du droit exclusif de pêche dans le rayon de 3 milles, à partir de la laisse de basse mer, le long de toute l'étendue des côtes de leurs pays respectifs, ainsi que des îles et des bancs qui en dépendent.

"Pour les baies le rayon de 3 milles sera mesuré à partir d'une ligne droite, tirée, en travers de la baie, dans la partie la plus rapprochée de l'entrée, au premier point où l'ouverture n'excédera pas 10 milles." (Hertslet, vol. xv, p. 794.)

British Order-in-Council, October 23, 1877:—

Prescribes the obligation of not concealing or effacing numbers or marks on boats, employed in fishing or dredging for purposes of sale on the coasts of England, Wales, Scotland and the Islands of Guernsey, Jersey, Alderney, Sark and Man, and not going outside—

"(*a.*) The distance of 3 miles from low-water mark along the whole extent of the said coasts;

"(*b.*) In cases of bays less than 10 miles wide the line joining the headlands of said bays." (Hertslet, vol. xiv., p. 1032.)

To this list may be added the unratified treaty of 1888 between Great Britain and the United States, which is so familiar to the Tribunal. Such unratified treaty contains an authoritative interpretation of the convention of October 20th, 1818, *sub judice:* "The 3 marine miles mentioned in article 1 of the convention of October 20th, 1818, shall be measured seaward from low-water mark; but at every bay, creek or harbour, not otherwise specifically provided for in this treaty, such three marine miles shall be measured seaward from a

straight line drawn across the bay, creek or harbour, in the part nearest the entrance at the first point where the width does not exceed ten marine miles," which is recognizing the exceptional bays as aforesaid and laying the rule for the general and common bays.

It has been suggested that the treaty of 1818 ought not to be studied as hereabove in the light of any treaties of a later date, but rather be referred to such British international conventions as preceded it and clearly illustrate, according to this view, what were, at the time, the principles maintained by Great Britain as to their sovereignty over the sea and over the coast and the adjacent territorial waters. In this connection the treaties of 1686 and 1713 with France and of 1763 with France and Spain have been recited and offered as examples also of exclusion of nations by agreement from fishery rights on the high seas. I cannot partake of such a view. The treaties of 1686, 1713, and 1763 can hardly be understood with respect to this, otherwise than as examples of the wild, obsolete claims over the common ocean which all nations have of old abandoned with the progress of an enlightened civilization. And if certain nations accepted long ago to be excluded by convention from fishing on what is to-day considered a common sea, it is precisely because it was then understood that such tracts of water, now free and open to all, were the exclusive property of a particular Power, who, being the owners, admitted or excluded others from their use. The treaty of 1818 is in the meantime one of the few which mark an era in the diplomacy of the world. As a matter of fact it is the very first which commuted the rule of the cannon-shot into the three marine miles of coastal jurisdiction. And it really would appear unjustified to explain such an historic document by referring it to international agreements of a hundred and two hundred years before when the doctrine of Selden's *Mare Clausum* was at its height, and when the coastal waters were fixed at such distances as sixty miles, or a hundred miles, or two days' journey from the shore and the like. It seems very appropriate, on the contrary, to explain the meaning of the treaty of 1818 by comparing it with those which immediately followed and established the same limit of coastal jurisdiction. As a general rule a treaty of a former date may be very safely construed by referring it to the provisions of like treaties made by the same nation on the same matter at a

later time. Much more so when, as occurs in the present case, the later conventions, with no exception, starting from the same premise of the three miles coastal jurisdiction arrive always to an uniform policy and line of action in what refers to bays. As a matter of fact, all authorities approach and connect the modern fishery treaties of Great Britain, and refer them to the treaty of 1818. The second edition of Klüber, for instance, quotes in the same sentence the treaties of October 20th, 1818, and August 2nd, 1839, as fixing a distance of three miles from low-water mark for coastal jurisdiction. And Fiori, the well-known Italian jurist, referring to the same marine miles of coastal jurisdiction, says: "This rule recognized as early as the treaty of 1818 between the United States and Great Britain, and that between Great Britain and France in 1839, has again been admitted in the treaty of 1867." ("Nouveau Droit international public." Paris, 1885, section 803.)

This is only a recogition of the permanency and the continuity of States. The treaty of 1818 is not a separate fact unconnected with the later policy of Great Britain. Its negotiators were not parties to such international convention, and their powers disappeared as soon as they had signed the document on behalf of their countries. The Parties to the treaty of 1818 were the United States and Great Britain, and what Great Britain meant in 1818 about bays and fisheries, when they, for the first time, fixed a marginal jurisdiction of three miles, can be very well explained by what Great Britain, the same permanent political entity, understood in 1839, 1843, 1867, 1874, 1878 and 1882, when fixing the very same zone of territorial waters. That a bay in Europe should be considered as different from a bay in America, and subject to other principles of international law, cannot be admitted in the face of it. What the practice of Great Britain has been outside the treaties is very well known to the Tribunal, and the examples might be multiplied of the cases in which that nation has ordered its subordinates to apply to the bays on these fisheries the ten miles entrance rule or the six miles according to the occasion. It has been repeatedly said that such have been only relaxations of the strict right, assented to by Great Britain in order to avoid friction on certain special occasions. That may be. But it may also be asserted that such relaxations have been very many, and that the constant, uniform, never contradicted, practice of concluding fishery treaties from 1839

down to the present day, in all of which the ten mile entrance bays are recognised, is the clear sign of a policy. This policy has but very lately found a most public, solemn, and unequivocal expression. "On a question asked in Parliament on the 21st February, 1907," says Pitt Cobbett, a distinguished English writer, with respect to the Moray Firth case, "it was stated that, according to the view of the Foreign Office, the Admiralty, the Colonial Office, the Board of Trade and the Board of Agriculture and Fisheries, the term 'territorial waters' was deemed to include waters extending from the coast line of any part of the territory of a State to three miles from the low-water mark of such coast line, and the waters of all bays, the entrance to which is not more than *six miles,* and of which the entire land boundary forms part of the territory of the same State." (Pitt Cobbett, "Cases and Opinions on International Law," vol. i, p. 143.)

Is there a contradiction between these six miles and the ten miles of the treaties just referred to? Not at all. The six miles are the consequence of the three miles marginal belt of territorial waters in their coincidence from both sides at the inlets of the coast and the ten miles far from being an arbitrary measure are simply an extension, a margin given for convenience to the strict six miles with fishery purposes. Where the miles represent sixty to a degree in latitude the ten miles are besides the sixth part of the same degree. The American Government, in reply to the observations made to Secretary Bayard's memorandum of 1888, said very precisely: "The width of ten miles was proposed not only because it had been followed in conventions between many other powers, but also because it was deemed reasonable and just in the present case; this Government, recognizing the fact that while it might have claimed a width of six miles as a basis of settlement, fishing within bays and harbours only slightly wider would be confined to areas so narrow as to render it practically valueless and almost necessarily expose the fishermen to constant danger of carrying their operations into forbidden waters." (British Case Appendix, p. 416.) And Professor John Basset Moore, a recognized authority on international law, in a communication addressed to the Institute of International Law, said very forcibly: "Since you observe that there does not appear to be any convincing reason to prefer the ten mile line in such a case to that of double three miles, I may say that there have been

supposed to exist reasons both of convenience and of safety. The ten mile line has been adopted in the cases referred to as a practical rule. The transgression of an encroachment upon territorial waters by fishing vessels is generally a grave offence, involving in many instances the forfeiture of the offending vessel, and it is obvious that the narrower the space in which it is permissible to fish, the more likely the offence is to be committed. In order, therefore, that fishing may be practicable and safe, and not constantly attended with the risk of violating territorial waters, it has been thought to be expedient not to allow it where the extent of free waters between the three miles drawn on each side of the bay is less than four miles. This is the reason of the ten mile line. Its intention is not to hamper or restrict the right to fish, but to render its exercise practicable and safe. When fishermen fall in with a shoal of fish the impulse to follow it is so strong as to make the possibilities of transgression very serious within narrow limits of free waters. Hence it has been deemed wiser to exclude them from space less than four miles each way from the forbidden lines. In spaces less than this operations are not only hazardous, but so circumscribed as to render them of little practical value." ("Annuaire de l'Institut de Droit international," 1894, p. 146.)

So the use of the ten mile bays so constantly put into practice by Great Britain in its fishery treaties has its root and connection with the marginal belt of three miles for the territorial waters. So much so that the Tribunal having decided not to adjudicate in this case the ten miles entrance to the bays of the treaty of 1818, this will be the only one exception in which the ten miles of the bays do not follow as a consequence the strip of three miles of territorial waters, the historical bays and estuaries always excepted.

And it is for that reason that an usage so firmly and for so long a time established ought, in my opinion, be applied to the construction of the treaty under consideration, much more so, when custom, one of the recognized sources of law, international as well as municipal, is supported in this case by reason and by the acquiescence and the practice of many nations.

The Tribunal has decided that: "in case of bays the three miles" (of the treaty) "are to be measured from a straight line drawn across the body of water at the place where it ceases

to have the configuration characteristic of a bay. At all other places the three miles are to be measured following the sinuosities of the coast." But no rule is laid out or general principle evolved for the parties to know what the nature of such configuration is or by what methods the points should be ascertained from which the bay should lose the characteristics of such. There lies the whole contention and the whole difficulty, not satisfactorily solved, to my mind, by simply recommending, without the scope of the Award and as a system of procedure for resolving future contestations under article 4 of the Treaty of Arbitration, a series of lines, which practical as they may be supposed to be, cannot be adopted by the Parties without concluding a new treaty.

These are the reasons for my dissent, which I much regret, on Question Five.

Done at the Hague, September 7th, 1910.

LUIS M. DRAGO.

## 1910.

### [1] TREATY BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RESPECTING THE BOUNDARY BETWEEN CANADA AND THE UNITED STATES IN PASSAMAQUODDY BAY, &c.

*Signed at Washington, May 21, 1910.*

(*Ratifications exchanged at Washington, August 20, 1910.*)

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the United States of America, being equally desirous of fixing and defining the location of the international boundary line between the United States and the Dominion of Canada in Passamaquoddy Bay and to the middle of Grand Manan Channel, and of removing all causes of dispute in connection therewith, have for that purpose resolved to conclude a Treaty, and to that end have appointed as their Plenipotentiaries:

[1] From Treaty Series No. 22, 1910.

His Britannic Majesty, the Right Honourable James Bryce, O. M., his Ambassador Extraordinary and Plenipotentiary at Washington; and

The President of the United States of America, Philander C. Knox, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

ARTICLE 1.

Whereas, by Article 1 of the Treaty of April 11, 1908, between Great Britain and the United States, it was agreed that Commissioners should be appointed for the purpose of more accurately defining and marking the international boundary line between the United States and the Dominion of Canada in the waters of Passamaquoddy Bay from the mouth of the St. Croix River to the Bay of Fundy, the description of the location of certain portions of such line being set forth in the aforesaid Article, and it was agreed with respect to the remaining portion of the line that—

> each of the High Contracting Parties shall present to the other within six months after the ratification of this Treaty a full printed statement of the evidence, with certified copies of original documents referred to therein which are in its possession, and the arguments upon which it bases its contentions, with a view to arriving at an adjustment of the location of this portion of the line in accordance with the true intent and meaning of the provisions relating thereto of the treaties of 1783 and 1814 between Great Britain and the United States, and the award of the Commissioners appointed in that behalf under the Treaty of 1814; it being understood that any action by either or both Governments or their representatives authorized in that behalf or by the local governments on either side of the line, whether prior or subsequent to such treaties and award, tending to aid in the interpretation thereof, shall be taken into consideration in determining their true intent and meaning;

And it was further agreed that if such agreement was reached between the Parties the Commissioners aforesaid should lay down and mark this portion of the boundary in accordance therewith and as provided in the said Article, but it was provided that in the event of a failure to agree within a set period, the location of such portion of the line should be determined by reference to arbitration;

And whereas, the time for reaching an agreement under the provisions of the aforesaid Article expired before such agreement was reached but the High Contracting Parties are nevertheless desirous of arriving at an adjustment of the location of this portion of the line by agreement without resort to arbitration, and have already, pursuant to the provisions above quoted of Article 1 of the Treaty aforesaid, presented each to the other a full printed statement of the evidence and of the arguments upon which the contentions of each are based, with a view to arriving at an adjustment of the location of the portion of the line referred to in accordance with the true intent and meaning of the provisions relating thereto in the Treaties of 1783 and 1814 between Great Britain and the United States and the award of the Commissioners appointed in that behalf under the Treaty of 1814;

Now, therefore, upon the evidence and arguments so presented, and after taking into consideration all actions of the respective Governments and of their representatives authorized in that behalf and of the local governments on either side of the line, whether prior or subsequent to such treaties and award, tending to aid in the interpretation thereof, the High Contracting Parties hereby agree that the location of the international boundary line between the United States and the Dominion of Canada from a point in Passamaquoddy Bay accurately defined in the Treaty between Great Britain and the United States of April 11, 1908, as lying between Treat Island and Friar Head, and extending thence through Passamaquoddy Bay and to the middle of Grand Manan Channel, shall run in a series of seven connected straight lines for the distances and in the directions as follows:

Beginning at the aforesaid point lying between Treat Island and Friar Head, thence

(1) South 8° 29′ 57″ West true, for a distance of 1152·6 meters; thence

(2) South 8° 29′ 34″ East, 759·7 meters; thence
(3) South 23° 56′ 25″ East, 1156·4 meters; thence
(4 South 0° 23′ 14″ West, 1040·0 meters; thence
(5) South 28° 04′ 26″ East, 1607·2 meters; thence
(6) South 81° 48′ 45″ East, 2616 8 meters to a point on the line which runs approximately North 40° East true, and which joins Sail Rock, off West Quoddy Head Light, and the southernmost rock lying off the southeastern point of the southern extremity of Campobello Island; thence
(7) South 47° East 5100 meters to the middle of Grand Manan Channel.

The description of the last two portions of the line thus defined, viz., those numbered (6) and (7), is intended to replace the description of the lowest portion of the line, viz., that numbered (2), as defined in Article 1 of the Treaty of April 11, 1908.

ARTICLE 2.

The location of the boundary line as defined in the foregoing Article shall be laid down and marked by the Commissioners under Article 1 of the aforesaid Treaty of April 11, 1908, in accordance with the provisions of such Article, and the line so defined and laid down shall be taken and deemed to be the international boundary extending between the points therein mentioned in Grand Manan Channel and Passamaquoddy Bay.

ARTICLE 3.

It is further agreed by the High Contracting Parties that on either side of the hereinabove described line southward from the point of its intersection with a line drawn true north from Lubec Channel Light, as at present established, either Party shall have the right, upon two months' notice to the other, to improve and extend the channel to such depth as may by it be deemed desirable or necessary, and to a width not exceeding one hundred and fifteen (115) meters on each side of the boundary line, and from such point of intersection northerly through Lubec Narrows to the turning point in the boundary lying between Treat Island and Friar Head, either Party shall have the right, upon two months' notice to the other, to improve and deepen the present channel to a width not exceeding sixty-five (65) meters on each side of the boundary line and to such depth as may by it be deemed desirable or necessary; it being

understood, however, that each Party shall also have the right to further widen and deepen the channel anywhere on its own side of the boundary.

ARTICLE 4.

This Treaty shall be ratified by His Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof, the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 21st day of May, in the year of our Lord one thousand nine hundred and ten.

[L.S.] JAMES BRYCE.
[L.S.] P. C. KNOX.

## 1910.

## [1] AGREEMENT BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA FOR THE SETTLEMENT OF CERTAIN PECUNIARY CLAIMS OUTSTANDING BETWEEN THE TWO COUNTRIES.

*Signed at Washington, August 18, 1910.*

Whereas Great Britain and the United States are signatories of the Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes, and are desirous that certain pecuniary claims outstanding between them should be referred to arbitration, as recommended by Article 38 of that Convention:

Now, therefore, it is agreed that such claims as are contained in the Schedules drawn up as hereinafter provided shall be referred to arbitration under Chapter IV of the said Convention, and subject to the following provisions:—

[1] From Treaty Series No. 11, 1912.

ARTICLE 1.

Either party may, at any time within four months from the date of the confirmation of this Agreement, present to the other party any claims which it desires to submit to arbitration. The claims so presented shall, if agreed upon by both parties, unless reserved as hereinafter provided, be submitted to arbitration in accordance with the provisions of this Agreement. They shall be grouped in one or more Schedules, which, on the part of the United States, shall be agreed on by and with the advice and consent of the Senate, His Majesty's Government reserving the right before agreeing to the inclusion of any claim affecting the interests of a self-governing Dominion of the British Empire to obtain the concurrence thereto of the Government of that Dominion.

Either Party shall have the right to reserve for further examination any claims so presented for inclusion in the Schedules; and any claims so reserved shall not be prejudiced or barred by reason of anything contained in this Agreement.

ARTICLE 2.

All claims outstanding between the two Governments at the date of the signature of this Agreement and originating in circumstances or transactions anterior to that date, whether submitted to arbitration or not, shall thereafter be considered as finally barred, unless reserved by either party for further examination, as provided in Article 1.

ARTICLE 3.

The arbitral tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention, which are as follows:—

"Article 87. Each of the parties in dispute appoints an arbitrator. The two arbitrators thus selected choose an umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court, exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the umpire is determined by lot.

"The umpire presides over the tribunal, which gives its decision by a majority of votes."

"Article 59. Should one of the Arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him."

ARTICLE 4.

The proceedings shall be regulated by so much of Chapter IV of the Convention and of Chapter III, excepting Articles 53 and 54, as the tribunal may consider to be applicable and to be consistent with the provisions of this Agreement.

ARTICLE 5.

The tribunal is entitled, as provided in Article 74 (Chapter III) of the Convention, to issue rules of procedure for the conduct of business, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all formalities required for dealing with the evidence.

The agents and counsel of the parties are authorised, as provided in Article 70 (Chapter III), to present orally and in writing to the tribunal all the arguments they may consider expedient in support or in defence of each claim.

The tribunal shall keep record of the claims submitted and the proceedings thereon, with the dates of such proceedings. Each Government may appoint a secretary. These secretaries shall act together as joint secretaries of the tribunal and shall be subject to its direction. The tribunal may appoint and employ any other necessary officer or officers to assist it in the performance of its duties.

The tribunal shall decide all claims submitted upon such evidence or information as may be furnished by either Government.

The tribunal is authorised to administer oaths to witnesses and to take evidence on oath.

The proceedings shall be in English.

ARTICLE 6.

The tribunal shall meet at Washington at a date to be hereafter fixed by the two Governments, and may fix the time

and place of subsequent meetings as may be convenient, subject always to special direction of the two Governments.

ARTICLE 7.

Each member of the tribunal, upon assuming the function of his office, shall make and subscribe a solemn declaration in writing that he will carefully examine and impartially decide, in accordance with treaty rights and with the principles of international law and of equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the tribunal.

ARTICLE 8.

All sums of money which may be awarded by the tribunal on account of any claim shall be paid by the one Government to the other, as the case may be, within eighteen months after the date of the final award, without interest and without deduction, save as specified in the next Article.

ARTICLE 9.

Each Government shall bear its own expenses. The expenses of the tribunal shall be defrayed by a rateable deduction on the amount of the sums awarded by it, at a rate of 5 per cent on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

ARTICLE 10.

The present Agreement, and also any Schedules agreed thereunder, shall be binding only when confirmed by the two Governments by an exchange of notes.

In witness whereof this Agreement has been signed and sealed by His Britannic Majesty's Ambassador at Washington, the Right Honourable James Bryce, O.M., on behalf of Great Britain, and by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States.

Done in duplicate at the City of Washington, this 18th day of August, 1910.

(L.S.) JAMES BRYCE.
(L.S.) PHILANDER C. KNOX.

## FIRST SCHEDULE OF CLAIMS.

First Schedule of Claims to be submitted to arbitration in accordance with the provisions of the Special Agreement for the submission to arbitration of Pecuniary Claims outstanding between Great Britain and the United States, signed on the 18th day of August, 1910, and the terms of such submission.

Class I.—Claims based on alleged denial in whole or in part of real property rights.

| BRITISH. | AMERICAN. |
|---|---|
| Cayuga Indians, Rio Grande. | Webster, Studer, R. E. Brown, Samuel Clark. |
| | *Fijian Land Claims.* |
| | Burt, Henry, Brower, Williams, |

Class II.—Claims based on the acts of the authorities of either Government in regard to the vessels of the nationals of the other Government, or for the alleged wrongful collection or receipt of customs duties or other charges by the authorities of either Government.

| BRITISH. | AMERICAN. |
|---|---|
| *Shipping Claims.* | *Fishing Claims.* |
| | GROUP I. |
| Coquitlan, Favourite, Wanderer, Kate, Lord Nelson, Canadienne, Eastry, Lindisfarne, Newchwang, Sidra, Maroa, Thomas F. Bayard, Jessie, Peschawa. | Against Newfoundland— |
| *Canadian Claims for Refund of Hay Duties.* | Cunningham and Thompson (18 vessels)—Masconomo, Arbutus, Anglo-Saxon, Quickstep, Nourmahal, Puritan, Talisman, Norma, Norumbega, Aloha, Ingomar, Jennie B. Hodgdon, Arkona, Arethusa, Independence II, S. P. Willard, Corona, Saladin. |
| Peter Anderson, Charles Arpin, Nathaniel Bachelder, Magloire G. Blain, Toussaint Bourassa, continuing partner of Bourassa and Forrester; Pierre Bourgeois, William Burland and Co., Charles | Davis Brothers (10 vessels)—Oregon, Margaret, Theo. Roosevelt, L. M. Stanwood, Georgie |

## FIRST SCHEDULE OF CLAIMS.—*Continued.*

### Class II.—*Con.*

| British. | American. |
|---|---|
| S. Rowe, surviving partner; Frederick Catudal; L. N. Charlebois, heir and assignee of Denis N. Charlebois; Joseph Couture; Wilfrid Dorais, heir of Louis T. Dorais; John and Francis Ewing, John Ewing, surviving partner; Joseph Jean Baptiste Gosselin, heirs of Joseph A. Lamoureux, deceased. | Campbell, Blanch, Veda McKown, E. A. Perkins, Kearsarge, Lena and Maud.<br>Wm. H. Parsons (12 vessels)—Corsair, Grace L. Fears, Argo, Lizzie Griffin, Independence, Independence II, Dreadnought, Robin Hood, Helen G. Wells, Colonial, Alice M. Parsons, Mildred V. Lee.<br>Gorton-Pew Company (37 vessels)—A. M. Parker, Priscilla Smith, Senator Gardner, Corsair, Vigilant, Harry A. Nickerson, Gossip, Flirt, Ella G. King, Helen, G. Wells, Ramona, Massachusetts, Ellen C. Burke, J. J. Flaherty, Geo. R. Alston, Maxime Elliott, Vera, Orinoco, Miranda, Madonna, Atlanta, Gov. Russell, Mystery, Jas. A. Garfield, L. I. Lowell, Dora A. Lawson, Tattler, Alice R. Lawson, Olga, J. R. Bradley, Fannie Smith, Rob Roy, Smuggler, Essex, Athlete, Valkyria, Sceptre.<br>W. H. Jordan (6 vessels)—Lewis H. Giles, O.W. Holmes, The Gatherer, Hattie E. Worcester, Golden Rod, Joseph Rowe.<br>Orlando Merchant (16 vessels)—Avalon, Constellation, O. W. Holmes, Golden Rod, Grayling, Joseph Rowe, Harvard, Mary E. Harty, Harriet W. Babson, Richard Wainwright, Henry M. Stanley, Lewis H. Giles, Lottie G. Merchant, Oriole, Clintonia, Esperanto.<br>Jerome McDonald (3 vessels)—Preceptor, Gladiator, Monitor.<br>John Pew and Sons (5 vessels)—A. E. Whyland, Essex, Columbia, Orinoco, Sceptre.<br>D. B. Smith and Co. (12 vessels)—Smuggler, Lucinda I. Lowell, Helen F. Whittier, Dora A. Lawson, Carrie W. Babson, Golden Hope, Fernwood, Sen. Gardner, Maxime Elliott, J. J. Flaherty, Tattler, Stranger. |

FIRST SCHEDULE OF CLAIMS.—*Continued.*

Class II.—*Con.*

| British. | American. |
|---|---|
| | Sylvanus Smith and Co. (7 vessels)—Lucile, Bohemia, Claudia, Arcadia, Parthia, Arabia, Sylvania. |
| | John Chisolm (5 vessels)—Admiral Dewey, Harry G. French, Monarch, Judique, Conqueror. |
| | Carl C. Young (3 vessels)—Dauntless, A. E. Whyland, William E. Morrissey. |
| | Hugh Pankhurst and Co. (6 vessels)—Rival, Arthur D. Story, Patrician, Geo. Parker, Sen. Saulsbury, Diana. |
| | A. D. Mallock (3 vessels)—Indiana, Alert, Edna, Wallace Hopper. |
| | Thomas M. Nickolson (13 vessels)—Ada S. Babson, Elizabeth N., Hiram Lowell, M. B. Stetson, A. V. S. Woodruff, T. M. Nickolson, Landseer, Edgar S. Foster, A. M. Nickolson, Wm. Matheson, Robin Hood, Annie G. Quinner, N. E. Symonds. |
| | M. J. Palson (3 vessels)—Barge Tillid, schooner J. K. Manning, tug Clarita. |
| | M. J. Dillon (1 vessel)—Edith Emery. |
| | Russell D. Terry (1 vessel)—Centennial. |
| | Lemuel E. Spinney (3 vessels)—American, Arbitrator, Dictator. |
| | Wm. H. Thomas (2 vessels)—Elmer E. Gray, Thos. L. Gorton. |
| | Frank H. Hall (3 vessels)—Ralph H. Hall, Sarah E. Lee, Faustina. |
| | M. Walen and Son (7 vessels)—Kentucky, Effie W. Prior, Orpheus, Hattie A. Heckman, Ella M. Goodsin, Bessie N. Devine, Arthur James. |
| | Atlantic Maritime Company (7 vessels)—James W. Parker, Raynah, Susan and Mary, Elsie, Fannie E. Prescott, E. E. Gray, Mildred Robinson. |
| | Waldo I. Wonson (5 vessels)—American, Mystery, Procyon, Effie |

FIRST SCHEDULE OF CLAIMS.—*Continued.*

Class II.—*Con.*

| British. | American. |
|---|---|
| | M. Morrissey, Marguerite.<br>Edward Trevoy (1 vessel)—Edward Trevoy.<br>Henry Atwood (1 vessel)—Fannie B. Atwood.<br>Fred Thompson (1 vessel)—Elsie M. Smith. |
| | Group II. |
| | Against Newfoundland— |
| | Bessie M. Wells, Elector, Sarah B. Putnam, A. E. Whyland, N. B. Parker, Thomas F. Bayard, Arethusa, Harry A. Nickerson, Arkona, Edna Wallace Hopper, Athlete. |
| | *Fishing Claims.* |
| | Against Canada— |
| | Frederick Gerring, North, D. J. Adams, R. T. Roy, Tattler, Hurricane, Argonaut, Jonas H. French. |

Class III.—Claims based on damages to the property of either Government or its nationals, or on personal wrongs of such nationals, alleged to be due to the operations of the military or naval forces of the other Government or to the acts or negligence of the civil authorities of the other Government.

| British. | American. |
|---|---|
| *Four Cable Companies Claims.* | Home Missionary Society, Daniel Johnson, Union Bridge Company, Madeiros. |
| Cuban Submarine Telegraph Company, Eastern Extension Cable Company, Canadian Electric Light Company, Great North-Western Telegraph Company. | |

FIRST SCHEDULE OF CLAIMS.—*Continued.*

Class III.—*Con.*

| British. | American. |
|---|---|

*"Philippine War" Claims.*

Ackert, Balfour, Broxup, Cundal, Dodson, Fleming, Forbes, Fox, Fyfe, Grace, Grindrod, Hawkins, F., Hawkins, J., Hendery, Hill, Hogge, Holliday, Hong Kong Bank, Iloilo Club, Eastern Extension Telegraph Company, Higgins, W., Higgins, N. L. Hoskyn and Co., Kauffman, Ker Bolton and Co., Launders, McLeod, McMeeking, Moore, Philippine Mineral Syndicate, Pohang, Pohoomul, Smith, Stevenson, Strachan, Thomson, Underwood, Warner, Zafiro, C. M. Chiene, N. L. Chiene, Parsons and Walker.

*"Hawaiian" Claims.*

Ashford, Bailey, Harrison, Kenyon, Levy, McDowall, Rawlins, Redward, Reynolds, Thomas.

Hardman, Wrathall, Cadenhead.

Class IV.—Claims based on contracts between the authorities of either Government and the nationals of the other Government.

| British. | American. |
|---|---|
| King Robert, Yukon Lumber, Hemming. | |

*Terms of Submission.*

1. In case of any claim being put forward by one party which is alleged by the other party to be barred by Treaty, the arbitral tribunal shall first deal with and decide the question whether the claim is so barred, and in the event of a decision that the claim is so barred, the claim shall be disallowed.

2. The arbitral tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim any admission of liability by the Government against whom a claim is put forward.

3. The arbitral tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim in whole or in part, any failure on the part of the claimants to obtain satisfaction through legal remedies which are open to him or placed at his disposal, but no claim shall be disallowed or rejected by application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity of the claim.

4. The arbitral tribunal, if it considers equitable, may include in its award in respect of any claim interest at a rate not exceeding 4 per cent per annum for the whole or any part of the period between the date when the claim was first brought to the notice of the other party and that of the confirmation of the Schedule in which it is included.

The foregoing Schedule and terms of submission are agreed upon in pursuance of and subject to the provisions of the Special Agreement for the submission to arbitration of pecuniary claims outstanding between Great Britain and the United States, signed on the 18th day of August, 1910, and require confirmation by the two Governments in accordance with the provisions of that Agreement.

Signed in duplicate at the city of Washington, this 6th day of July, 1911, by His Britannic Majesty's Ambassador at Washington, the Right Honourable James Bryce, O.M., on behalf of Great Britain, and by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States.

JAMES BRYCE.
PHILANDER C. KNOX.

## EXCHANGE OF NOTES.

### (1.)

*The Secretary of State of the United States to His Majesty's Ambassador.*

DEPARTMENT OF STATE, WASHINGTON,
April 26, 1912.

Excellency,

I have the honour to inform you that the Senate, by its resolution of the 19th July, 1911, gave its advice and consent to the ratification of the Special Agreement between the United States and Great Britain, signed on the 18th August, 1910, for the submission to arbitration of outstanding pecuniary claims, and also to the ratification of the Schedule of Claims agreed to thereunder on the 6th July, 1911; and I am now prepared to proceed to the exchange of notes confirming this Special Agreement and Schedule of Claims, pursuant to the requirement of Article 10 of the Agreement, that it, and also any Schedules of Claims agreed upon thereunder, shall be binding only when confirmed by the two Governments by an exchange of notes.

As part of the confirmation of the aforesaid Special Agreement and Schedule of Claims, I have the honour to state further that, in order to facilitate the arbitral proceedings to be instituted pursuant thereto, the Government of the United States agrees with the Government of His Britannic Majesty that, whenever the agents of the respective parties shall, prior to or during the progress of the proceedings, enter into an agreement in writing upon a rule or mode of procedure, such agreement shall have the force of an order of the arbitral tribunal, and shall, together with any proceedings taken pursuant thereto, be entered at the next succeeding session of the arbitral tribunal upon its records as part of the proceedings before the tribunal.

I accordingly convey to you herewith the confirmation by the Government of the United States of the Special Agreement and Schedule, understanding that your Government is prepared to record its confirmation thereof similarly by a note in acknowledgment of this, the date of your note in acknowledgment

being taken as the date of confirmation for the requirements of the provisions of Article 1 of the Special Agreement.

I have, &c.,

P. C. KNOX

His Excellency the Right Honourable
JAMES BRYCE, O.M.,
Ambassador of Great Britain.

(2.)

*His Majesty's Ambassador to the Secretary of State of the United States.*

BRITISH EMBASSY, WASHINGTON,
April 26, 1912.

Sir,

I have the honour to acknowledge the receipt of your note, dated to-day, in which you inform me that the United States Government confirms the Special Agreement and Schedule for the submission to arbitration of pecuniary claims outstanding between Great Britain and the United States, such confirmation being effected by exchange of notes, as provided by Article 10 of the Special Agreement, and being dated as of date of this my note in reply (*i.e.*, the 26th April), for the requirements of the provisions of Article 1.

I am authorised to inform the United States Government that His Majesty's Government are prepared on their part to confirm the Special Agreement and Schedule, and do hereby convey their confirmation thereof in acknowledgment of that contained in your note and pursuant to the provisions of Article 10.

His Majesty's Government further agrees with the United States Government that whenever the agents of the respective parties shall, prior to or during the progress of the proceedings, enter into an agreement in writing upon a rule or mode of procedure, such agreement shall have the force of an order of the arbitral tribunal, and shall, together with any proceedings taken pursuant thereto, be entered at the next succeeding session of

the arbitral tribunal upon its records as part of the proceedings before the tribunal.

I have, &c.,

JAMES BRYCE.

The Honourable P. C. Knox,
Secretary of State,
&c., &c., &c.

## 1911.

## [1] TREATY BETWEEN THE UNITED KINGDOM AND THE UNITED STATES RESPECTING MEASURES FOR THE PRESERVATION AND PROTECTION OF THE FUR-SEALS.

*Signed at Washington, February 7, 1911.*

*(Ratifications exchanged at Washington, July 7, 1911.)*

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the United States of America, being desirous of adopting effective measures for the preservation and protection of the fur seals, have resolved to conclude a Treaty for that purpose, and to that end have named as their Plenipotentiaries:

His Britannic Majesty, the Right Honourable James Bryce, O.M., His Ambassador Extraordinary and Plenipotentiary at Washington; and

The President of the United States of America, Philander C. Knox, Secretary of State of the United States;

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

### Article 1.

The High Contracting Parties mutually and reciprocally agree that their subjects and citizens, respectively, and all persons subject to their laws and treaties, and their vessels shall be prohibited while this Article remains in force from engaging

[1] From Treaty Series No. 25, 1911.

in pelagic sealing in that part of the Behring Sea and North Pacific Ocean north of the thirty-fifth degree of north latitude and east of the one hundred and eightieth meridian, and that every such person or vessel offending against this prohibition may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be delivered as soon as practicable to the authorities of the nation to which they respectively belong, who alone shall have jurisdiction to try the offence and impose the penalties for the same, the witnesses and proof necessary to establish the offence being also sent with them, or otherwise furnished to the proper jurisdictional authority with all reasonable promptitude; and they agree, further, respectively, to prohibit during the same period the use of any British or United States port by any persons for any purposes whatsoever connected with the operations of pelagic sealing in said waters, and to prohibit during the same period the importation or bringing of any fur-seal skins taken in such pelagic sealing into any British or United States port, and by the necessary legislation and enforcement of appropriate penalties thereunder to make such prohibitions effective.

Such prohibitions, however, shall not apply to Indians dwelling on the coasts of the territory of Great Britain or of the United States and carrying on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled wholly by paddles, oars, or sails, and manned by not more than five persons each, in the way hitherto practised by the Indians, without the use of firearms, provided such Indians are not in the employment of other persons, nor under contract for the delivery of the skins to any person.

ARTICLE 2.

The United States agrees that one-fifth ($\frac{1}{5}$) in number and in value of the total number of sealskins taken annually upon the Pribilof Islands, or any other islands or shores of the waters above defined, subject to the jurisdiction of the United States, to which the seal herd now frequenting the Pribilof Islands hereafter resorts, shall be delivered at the end of each season to an authorised agent of the Canadian Government in the Pribilof Islands; *Provided, however,* That nothing herein contained shall restrict the right of the United States at any time and

from time to time to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose such restrictions and regulations upon the total number of skins to be taken in any season and the manner and times and places of taking them as may seem necessary to protect and preserve the seal herd or to increase its numbers.

ARTICLE 3.

It is further agreed that as soon as this Article goes into effect the United States shall pay to Great Britain the sum of two hundred thousand dollars ($200,000) as an advance payment in lieu of such number of fur-seal skins, to which Great Britain would be entitled under the provisions of this Treaty, as would be equivalent to that amount reckoned at their market value at London at the date of delivery, before dressing or curing and less cost of transportation from the Pribilof Islands; such market value in case of dispute to be determined by an umpire to be agreed upon by the High Contracting Parties, which skins shall be retained by the United States in satisfaction of such payment.

The United States further agrees that Great Britain's share of the sealskins taken on the Pribilof Islands shall not be less than one thousand (1,000) in any year even if such number is more than one-fifth of the number to which the authorised killing is restricted in such year, unless the killing of seals in such year or years shall have been absolutely prohibited by the United States for all purposes except to supply food, clothing, and boat skins for the natives on the islands, in which case the United States agrees to pay to Great Britain the sum of ten thousand dollars ($10,000) annually in lieu of any share of skins during the years when no killing is allowed, and Great Britain agrees that after deducting the skins of Great Britain's share which are to be retained by the United States as above provided to reimburse itself for the advance payment aforesaid, the United States shall be entitled to reimburse itself for any annual payments made as herein required, by retaining an additional number of sealskins from Great Britain's share over and above the specified minimum allowance of one thousand (1,000) skins in any subsequent year or years when killing is again resumed, until the whole number of the skins so retained shall equal, reckoned at their market value determined as above provided

for, the entire amount so paid, with interest at the rate of four (4) per cent per annum.

If, however, the total number of seals frequenting the Pribilof Islands in any year falls below one hundred thousand (100,000), enumerated by official count, then all killing, excepting the inconsiderable supply necessary for the support of the natives, as above noted, may be suspended without allowance of skins or payment of money equivalent until the number of such seals again exceeds one hundred thousand (100,000), enumerated in like manner.

ARTICLE 4.

The term "pelagic sealing," as used herein, is defined to be the killing, capturing, or pursuing in any manner whatsoever of fur seals at sea, outside territorial waters.

ARTICLE 5.

The High Contracting Parties agree that they will each maintain a guard or patrol in the waters of the North Pacific Ocean and Behring Sea so far as may be necessary for the enforcement of the aforesaid prohibitions.

ARTICLE 6.

The foregoing Articles shall go into effect as soon as, but not before, an international agreement is concluded and ratified by the Governments of Great Britain, the United States, Japan, and Russia, by which each of those Powers shall undertake, by such stipulations as may be mutually acceptable, to prohibit for a period of not less than fifteen years, its own subjects or citizens and all persons subject to its laws and treaties, from engaging in pelagic sealing in waters including the area defined in Article 1, and effectively to enforce such prohibition.

The foregoing Articles of this Treaty shall continue in force during the period of fifteen (15) years from the day on which they go into effect and thereafter until terminated by twelve (12) months written notice given by either Great Britain or the United States to the other, which notice may be given at the expiration of fourteen years or at any time afterwards.

ARTICLE 7.

The High Contracting Parties engage to co-operate with each other in urging other Powers whose subjects or citizens may be concerned in the fur-seal fisheries to forego, in virtue of appropriate arrangements, the exercise of the right of pelagic sealing, and also to prohibit the use of their ports and flag in the furtherance of pelagic sealing within the areas covered by such arrangement.

ARTICLE 8.

This Treaty shall be ratified by His Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the seventh day of February, in the year of Our Lord one thousand nine hundred and eleven.

(L.S.) JAMES BRYCE.
(L.S.) PHILANDER C. KNOX.

## [1] CONVENTION BETWEEN THE UNITED KINGDOM, THE UNITED STATES, JAPAN AND RUSSIA, RESPECTING MEASURES FOR THE PRESERVATION AND PROTECTION OF THE FUR SEALS IN THE NORTH PACIFIC OCEAN.

*Signed at Washington, July 7, 1911.*

*(Ratifications deposited at Washington, December 12, 1911.)*

His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, the United States of America, His Majesty the Emperor of Japan, and His Majesty the Emperor of all the Russias, being desirous of adopting effective means for the preservation and protection of the fur seals which frequent the waters of the North Pacific Ocean, have resolved to

[1] From Treaty Series No. 2, 1912.

conclude a Convention for the purpose, and to that end have named as their Plenipotentiaries:

His Britannic Majesty, the Right Honourable James Bryce, of the Order of Merit, his Ambassador Extraordinary and Plenipotentiary at Washington, and Joseph Pope, Esquire, Commander of the Royal Victorian Order and Companion of the Order of St. Michael and St. George, Under Secretary of State of Canada for External Affairs;

The President of the United States of America, the Honourable Charles Nagel, Secretary of Commerce and Labour of the United States, and the Honourable Chandler P. Anderson, Counsellor of the Department of State of the United States;

His Majesty the Emperor of Japan, Baron Yasuya Uchida, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, his Ambassador Extraordinary and Plenipotentiary at Washington, and the Honourable Hitoshi Dauké, Shoshii, Third Class of the Imperial Order of the Rising Sun, Director of the Bureau of Fisheries, Department of Agriculture and Commerce;

His Majesty the Emperor of all the Russias, the Honourable Pierre Botkine, Chamberlain of His Majesty's Court, Envoy Extraordinary and Minister Plenipotentiary to Morocco, and Baron Boris Nolde, of the Foreign Office;

Who, after having communicated to one another their respective full powers, which were found to be in due and proper form, have agreed upon the following articles:—

### Article 1.

The High Contracting Parties mutually and reciprocally agree that their citizens and subjects respectively, and all persons subject to their laws and treaties, and their vessels, shall be prohibited, while this Convention remains in force, from engaging in pelagic sealing in the waters of the North Pacific Ocean, north of the thirtieth parallel of north latitude and including the Seas of Behring, Kamchatka, Okhotsk and Japan, and that every such person and vessel offending against such prohibition may be seized, except within the territorial jurisdiction of one of the other Powers, and detained by the naval or other duly commissioned officers of any of the Parties to this Convention, to be delivered as soon as practicable to an authorised official of their own nation at the nearest point to the place of seizure, or elsewhere as may be mutually agreed upon; and that the

authorities of the nation to which such person or vessel belongs alone shall have jurisdiction to try the offence and impose the penalties for the same; and that the witnesses and proofs necessary to establish the offence, so far as they are under the control of any of the Parties to this Convention, shall also be furnished with all reasonable promptitude to the proper authorities having jurisdiction to try the offence.

ARTICLE 2.

Each of the High Contracting Parties further agrees that no person or vessel shall be permitted to use any of its ports or harbours or any part of its territory for any purposes whatsoever connected with the operations of pelagic sealing in the waters within the protected area mentioned in Article 1.

ARTICLE 3.

Each of the High Contracting Parties further agrees that no sealskins taken in the waters of the North Pacific Ocean within the protected area mentioned in Article 1, and no sealskins identified as the species known as *Callorhinus alascanus, Callorhinus ursinus,* and *Callorhinus kurilensis,* and belonging to the American, Russian or Japanese herds, except such as are taken under the authority of the respective Powers to which the breeding grounds of such herds belong and have been officially marked and certified as having been so taken, shall be permitted to be imported or brought into the territory of any of the Parties to this Convention.

ARTICLE 4.

It is further agreed that the provisions of this Convention shall not apply to Indians, Ainos, Aleuts, or other aborigines dwelling on the coasts of the waters mentioned in Article 1, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practised and without the use of firearms; provided that such aborigines are not in the employment of other persons, or under contract to deliver the skins to any person.

ARTICLE 5.

Each of the High Contracting Parties agrees that it will not permit its citizens or subjects or their vessels to kill, capture or pursue beyond the distance of three miles from the shore line of its territories sea otters in any part of the waters mentioned in Article 1 of this Convention.

ARTICLE 6.

Each of the High Contracting Parties agrees to enact and enforce such legislation as may be necessary to make effective the foregoing provisions with appropriate penalties for violations thereof.

ARTICLE 7.

It is agreed on the part of the United States, Japan, and Russia that each respectively will maintain a guard or patrol in the waters frequented by the seal herd in the protection of which it is especially interested, so far as may be necessary for the enforcement of the foregoing provisions.

ARTICLE 8.

All of the High Contracting Parties agree to co-operate with each other in taking such measures as may be appropriate and available for the purpose of preventing pelagic sealing in the prohibited area mentioned in Article 1.

ARTICLE 9.

The term pelagic sealing is hereby defined for the purposes of this Convention as meaning the killing, capturing or pursuing in any manner whatsoever of fur seals at sea.

ARTICLE 10.

The United States agrees that of the total number of sealskins taken annually under the authority of the United States upon the Pribilof Islands or any other islands or shores of the waters mentioned in Article 1 subject to the jurisdiction of the United States to which any seal herds hereafter resort, there

shall be delivered at the Pribilof Islands at the end of each season fifteen per cent (15 per cent) gross in number and value thereof to an authorised agent of the Canadian Government and fifteen per cent (15 per cent) gross in number and value thereof to an authorised agent of the Japanese Government; provided, however, that nothing herein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose such restrictions and regulations upon the total number of skins to be taken in any season and the manner and times and places of taking them as may seem necessary to protect and preserve the seal herd or to increase its number.

ARTICLE 11.

The United States further agrees to pay the sum of two hundred thousand dollars ($200,000) to Great Britain and the sum of two hundred thousand dollars ($200,000) to Japan when this Convention goes into effect, as an advance payment in each case in lieu of such number of fur-seal skins to which Great Britain and Japan respectively would be entitled under the provisions of this Convention as would be equivalent in each case to two hundred thousand dollars ($200,000) reckoned at their market value at London at the date of their delivery before dressing and curing and less cost of transportation from the Pribilof Islands, such market value in case of dispute to be determined by an umpire to be agreed upon by the United States and Great Britain, or by the United States and Japan, as the case may be, which skins shall be retained by the United States in satisfaction of such payments.

The United States further agrees that the British and Japanese share respectively of the sealskins taken from the American herd under the terms of this Convention shall be not less than one thousand (1,000) each in any year even if such number is more than fifteen per cent (15 per cent) of the number to which the authorised killing is restricted in such year, unless the killing of seals in such year or years shall have been absolutely prohibited by the United States for all purposes except to supply food, clothing, and boat skins for the natives on the islands, in which case the United States agrees to pay to Great Britain and to Japan each the sum of ten thousand dollars ($10,000) annually in lieu of any share of skins during

the years when no killing is allowed; and Great Britain agrees, and Japan agrees, that after deducting the skins of their respective shares, which are to be retained by the United States as above provided to reimburse itself for the advance payment aforesaid, the United States shall be entitled to reimburse itself for any annual payments made as herein required, by retaining an additional number of sealskins from the British and Japanese shares respectively over and above the specified minimum allowance of one thousand (1,000) skins in any subsequent year or years when killing is again resumed, until the whole number of skins retained shall equal, reckoned at their market value determined as above provided for, the entire amount so paid, with interest at the rate of four per cent (4 per cent) per annum.

If, however, the total number of seals frequenting the United States islands in any year falls below one hundred thousand (100,000), enumerated by official count, then all killing, excepting the inconsiderable supply necessary for the support of the natives as above noted, may be suspended without allowance of skins or payment of money equivalent until the number of such seals again exceeds one hundred thousand (100,000), enumerated in like manner.

ARTICLE 12.

It is agreed on the part of Russia that of the total number of sealskins taken annually upon the Commander Islands, or any other island or shores of the waters defined in Article 1 subject to the jurisdiction of Russia to which any seal herds hereafter resort, there shall be delivered at the Commander Islands at the end of each season fifteen per cent (15 per cent) gross in number and value thereof to an authorised agent of the Canadian Government, and fifteen per cent (15 per cent) gross in number and value thereof to an authorised agent of the Japanese Government; provided, however, that nothing herein contained shall restrict the right of Russia at any time and from time to time during the first five years of the term of this Convention to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose during the term of this Convention such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them as may seem necessary to preserve and protect the Russian seal

herd, or to increase its number; but it is agreed, nevertheless, on the part of Russia that during the last ten years of the term of this Convention not less than five per cent (5 per cent) of the total number of seals on the Russian rookeries and hauling grounds will be killed annually, provided that said five per cent (5 per cent) does not exceed eighty-five per cent (85 per cent) of the three-year-old male seals hauling in such year.

If, however, the total number of seals frequenting the Russian islands in any year falls below eighteen thousand (18,000) enumerated by official count, then the allowance of skins mentioned above and all killing of seals except such as may be necessary for the support of the natives on the islands may be suspended until the number of such seals again exceeds eighteen thousand (18,000) enumerated in like manner.

ARTICLE 13.

It is agreed on the part of Japan that of the total number of sealskins taken annually upon Robben Island, or any other islands or shores of the waters defined in Article 1 subject to the jurisdiction of Japan to which any seal herds hereafter resort, there shall be delivered at Robben Island at the end of each season ten per cent (10 per cent) gross in number and value thereof to an authorised agent of the United States Government, ten per cent (10 per cent) gross in number and value thereof to an authorised agent of the Canadian Government, and ten per cent (10 per cent) gross in number and value thereof to an authorised agent of the Russian Government; provided, however, that nothing herein contained shall restrict the right of Japan at any time and from time to time during the first five years of the term of this Convention to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose during the term of this Convention such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them as may seem necessary to preserve and protect the Japanese herd, or to increase its number; but it is agreed, nevertheless, on the part of Japan that during the last ten years of the term of this Convention not less than five per cent (5 per cent) of the total number of seals on the Japanese rookeries and hauling grounds will be killed annually, provided that said five per cent (5 per cent) does not exceed eighty-five per cent

(85 per cent) of the three-year-old male seals hauling in such year.

If, however, the total number of seals frequenting the Japanese islands in any year falls below six thousand five hundred (6,500) enumerated by official count, then the allowance of skins mentioned above and all killing of seals except such as may be necessary for the support of the natives on the islands may be suspended until the number of such seals again exceeds six thousand five hundred (6,500) enumerated in like manner.

ARTICLE 14.

It is agreed on the part of Great Britain that in case any seal herd hereafter resorts to any islands or shores of the waters defined in Article 1 subject to the jurisdiction of Great Britain, there shall be delivered at the end of each season during the term of this Convention ten per cent (10 per cent) gross in number and value of the total number of sealskins annually taken from such herd to an authorised agent of the United States Government, ten per cent (10 per cent) gross in number and value of the total number of sealskins annually taken from such herd to an authorised agent of the Japanese Government, and ten per cent (10 per cent) gross in number and value of the total number of sealskins annually taken from such herd to an authorised agent of the Russian Government.

ARTICLE 15.

It is further agreed between the United States and Great Britain that the provisions of this Convention shall supersede, in so far as they are inconsistent therewith or in duplication thereof, the provisions of the treaty relating to the fur seals, entered into between the United States and Great Britain on the 7th day of February, 1911.

ARTICLE 16.

This Convention shall go into effect upon the 15th day of December, 1911, and shall continue in force for a period of fifteen (15) years from that date, and thereafter until terminated by twelve (12) months' written notice given by one or more of the Parties to all of the others, which notice may be given at the expiration of fourteen years or at any time afterwards,

and it is agreed that at any time prior to the termination of this Convention, upon the request of any one of the High Contracting Parties, a conference shall be held forthwith between representatives of all the Parties hereto, to consider and if possible agree upon a further extension of this Convention with such additions and modifications, if any, as may be found desirable.

ARTICLE 17.

This Convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, by His Britannic Majesty, by His Majesty the Emperor of Japan, and by His Majesty the Emperor of all the Russias; and ratifications shall be exchanged at Washington as soon as practicable.

In faith whereof, the respective Plenipotentiaries have signed this Convention in quadruplicate and have hereunto affixed their seals.

Done at Washington the seventh day of July, in the year one thousand nine hundred and eleven.

(L.S.) JAMES BRYCE.
(L.S.) JOSEPH POPE.
(L.S.) CHARLES NAGEL.
(L.S.) CHANDLER P. ANDERSON.
(L.S.) Y. UCHIDA.
(L.S.) H. DAUKE.
(L.S.) P. BOTKINE.
(L.S.) NOLDE.

*Protocol of Deposit of Ratifications.*

The Convention for the Protection of Fur Seals, signed by the respective Plenipotentiaries of Great Britain, the United States of America, Japan, and Russia, at Washington on July 7, 1911, having been ratified by the four Governments and the ratifications having been found to conform to one another, the undersigned, the Ambassador of Great Britain, the Ambassador of Japan, and the Ambassador of Russia, duly authorised thereto by their respective Governments, do hereby declare that, in conformity with the understanding that has been reached by the Governments signatory of the said Convention as to the form and manner in which the exchange of ratifications provided for

in Article 17 of the said Convention shall be effected, they have delivered, and the undersigned Secretary of State of the United States of America hereby declares that he has received, for deposit in the archives of the Government of the United States of America, the respective instruments of ratification by Great Britain, Japan, and Russia, of the said Convention for the Protection of Fur Seals. And the Secretary of State further declares that the instrument of ratification of the said Convention by the President of the United States of America has, in accordance with the understanding above mentioned, been deposited in the archives of the Government of the United States of America, together with the like instruments of ratification of the Sovereigns of Great Britain, Japan, and Russia.

In faith whereof the undersigned have prepared the present *procès-verbal* in one original, of which a copy, duly certified, will be transmitted by the Government of the United States, through the diplomatic channel, to each of the signatory Governments, together with a certified copy each of the instrument of ratification of the said Convention by His Britannic Majesty, the President of the United States of America, His Majesty the Emperor of Japan, and His Majesty the Emperor of Russia.

Done at the city of Washington this twelfth day of December, nineteen hundred and eleven.

(L.S.) JAMES BRYCE.
(L.S.) PHILANDER C. KNOX.
(L.S.) M. HANIHARA.
(L.S.) G. BAKHMETEFF.

## 1912.

### [1]AGREEMENT BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RESPECTING THE NORTH ATLANTIC FISHERIES.

*Signed at Washington, July 20, 1912.*

(*Ratifications exchanged at Washington, November 15, 1912.*)

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the

[1] From Treaty Series No. 22, 1912.

Seas, Emperor of India, and the United States of America, being desirous of concluding an Agreement regarding the exercise of the liberties referred to in Article 1 of the Treaty of October 20, 1818, have for this purpose named as their Plenipotentiaries:

His Britannic Majesty: Alfred Mitchell Innes, Chargé d'Affaires of His Majesty's Embassy at Washington;

The President of the United States of America: Chandler P. Anderson, Counsellor for the Department of State of the United States;

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:—

## Article 1.

Whereas the award of The Hague Tribunal of September 7, 1910, recommended for the consideration of the Parties certain rules and a method of procedure under which all questions which may arise in the future regarding the exercise of the liberties referred to in Article 1 of the Treaty of October 20, 1818, may be determined in accordance with the principles laid down in the award, and the Parties having agreed to make certain modifications therein, the rules and method of procedure so modified are hereby accepted by the Parties in the following form:—

1. All future municipal laws, ordinances, or rules for the regulation of the fisheries by Great Britain, Canada, or Newfoundland in respect of (1) the hours, days, or seasons when fish may be taken on the treaty coasts; (2) the method, means, and implements used in the taking of fish or in carrying on fishing operations; (3) any other regulations of a similar character; and all alterations or amendments of such laws, ordinances, or rules shall be promulgated and come into operation within the first fifteen days of November in each year; provided, however, in so far as any such law, ordinance, or rule shall apply to a fishery conducted between the 1st day of November and the 1st day of February, the same shall be promulgated at least six months before the 1st day of November in each year.

Such laws, ordinances, or rules by Great Britain shall be promulgated by publication in the "London Gazette," by

Canada in the "Canada Gazette," and by Newfoundland in the "Newfoundland Gazette."

After the expiration of ten years from the date of this Agreement, and so on at intervals of ten years thereafter, either Party may propose to the other that the dates fixed for promulgation be revised in consequence of the varying conditions due to changes in the habits of the fish or other natural causes; and if there shall be a difference of opinion as to whether the conditions have so varied as to render a revision desirable, such difference shall be referred for decision to a commission possessing expert knowledge, such as the Permanent Mixed Fishery Commission hereinafter mentioned.

2. If the Government of the United States considers any such laws or regulations inconsistent with the Treaty of 1818, it is entitled so to notify the Government of Great Britain within forty-five days after the publication above referred to, and may require that the same be submitted to and their reasonableness, within the meaning of the award, be determined by the Permanent Mixed Fishery Commission constituted as hereinafter provided.

3. Any law or regulation not so notified within the said period of forty-five days, or which, having been so notified, has been declared reasonable and consistent with the Treaty of 1818 (as interpreted by the said award) by the Permanent Mixed Fishery Commission, shall be held to be reasonable within the meaning of the award; but if declared by the said Commission to be unreasonable and inconsistent with the Treaty of 1818, it shall not be applicable to the inhabitants of the United States exercising their fishing liberties under the Treaty of 1818.

4. Permanent Mixed Fishery Commissions for Canada and Newfoundland, respectively, shall be established for the decision of such questions as to the reasonableness of future regulations, as contemplated by Article 4 of the Special Agreement of January 27, 1909. These Commissions shall consist of an expert national, appointed by each Party for five years; the third member shall not be a national of either Party. He shall be nominated for five years by agreement of the Parties, or, failing such agreement, within two months from the date, when either of the Parties to this Agreement shall call upon the other to agree upon such third member, he shall be nominated by Her Majesty the Queen of the Netherlands.

5. The two national members shall be summoned by the Government of Great Britain, and shall convene within thirty

days from the date of notification by the Government of the United States. These two members having failed to agree on any or all of the questions submitted within thirty days after they have convened, or having before the expiration of that period notified the Government of Great Britain that they are unable to agree, the full Commission, under the presidency of the Umpire, is to be summoned by the Government of Great Britain, and shall convene within 30 days thereafter to decide all questions upon which the two national members had disagreed. The Commission must deliver its decision, if the two Governments do not agree otherwise, within forty-five days after it has convened. The Umpire shall conduct the procedure in accordance with that provided in Chapter IV of the Convention for the Pacific Settlement of International Disputes of October 18,1907, except in so far as herein otherwise provided.

6. The form of convocation of the Commission, including the terms of reference of the question at issue, shall be as follows:—

"The Provision hereinafter fully set forth of an act dated ....., published in the '..... Gazette,' has been notified to the Government of Great Britain by the Government of the United States under date of....., as provided by the Agreement entered into on July 20, 1912, pursuant to the award of The Hague Tribunal of September 7, 1910.

"Pursuant to the provisions of that Agreement the Government of Great Britain hereby summons the Permanent Mixed Fishery Commission for (Canada) / (Newfoundland) composed of..... Commissioner for the United States of America, and of..... Commissioner for (Canada), / (Newfoundland), who shall meet at Halifax, Nova Scotia, with power to hold subsequent meetings at such other place or places as they may determine, and render a decision within thirty days as to whether the provision so notified is reasonable and consistent with the Treaty of 1818, as interpreted by the award of The Hague Tribunal of September 7, 1910, and, if not, in what respect it is unreasonable and inconsistent therewith.

"Failing an agreement on this question within thirty days, the Commission shall so notify the Government of Great Britain in order that the further action required by that award shall be taken for the decision of the above question.

"The provision is as follows....."

7. The unanimous decision of the two national Commissioners, or the majority decision of the Umpire and one Commissioner, shall be final and binding.

8. Any difference in regard to the regulations specified in Protocol XXX* of the arbitration proceedings, which shall not have been disposed of by diplomatic methods, shall be referred not to the Commission of expert specialists mentioned in the award but to the Permanent Mixed Fishery Commissions, to be constituted as hereinbefore provided, in the same manner as a difference in regard to future regulations would be so referred.

ARTICLE 2.

And whereas the Tribunal of Arbitration in its award decided that—

> In case of bays the 3 marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the 3 marine miles are to be measured following the sinuosities of the coast.

And whereas the Tribunal made certain recommendations for the determination of the limits of the bays enumerated in the award;

Now, therefore, it is agreed that the recommendations, in so far as the same relate to bays contiguous to the territory of the Dominion of Canada, to which Question V of the Special Agreement is applicable, are hereby adopted, to wit:

> In every bay not hereinafter specifically provided for, the limits of exclusion shall be drawn 3 miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed 10 miles.
>
> For the Baie des Chaleurs the limits of exclusion shall be drawn from the line from the Light at Birch Point on Miscou Island to Maequereau Point Light; for the Bay of Miramichi, the line from the Light at Point Escuminac to the Light on the eastern point of Tabisintac Gully; for Egmont Bay, in Prince Edward Island, the line from the

*See Can. Sess. Papers 97b, 1911, p. 50-61.

Light at Cape Egmont to the Light at West Point; and off St. Ann's Bay, in the Province of Nova Scotia, the line from the Light at Point Anconi to the nearest point on the opposite shore of the mainland.

For or near the following bays the limits of exclusion shall be 3 marine miles seawards from the following lines, namely:

For or near Barrington Bay, in Nova Scotia, the line from the Light on Stoddard Island to the Light on the south point of Cape Sable, thence to the Light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island Light to Green Island Light, thence to Point Rouge; for Mira Bay, the line from the Light on the east point of Scatary Island to the north-easterly point of Cape Morien.

Long Island and Bryer Island, on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that the award does not cover Hudson Bay.

ARTICLE 3.

It is further agreed that the delimitation of all or any of the bays on the coast of Newfoundland, whether mentioned in the recommendations or not, does not require consideration at present.

ARTICLE 4.

The present Agreement shall be ratified by His Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof the respective Plenipotentiaries have signed this Agreement in duplicate and have hereunto affixed their seals.

Done at Washington on the 20th day of July, one thousand nine hundred and twelve.

(L.S.) ALFRED MITCHELL INNES.
(L.S.) CHANDLER P. ANDERSON.

## APPENDIX

### [1]DECISION OF THE BRITISH AND AMERICAN COMMISSIONERS, UNDER THE 5TH ARTICLE OF THE TREATY OF 1794 AS MODIFIED BY THE EXPLANATORY ARTICLE CONCLUDED BETWEEN THE TWO GOVERNMENTS, 15TH MARCH, 1798, RELATING TO THE RIVER ST. CROIX.—PROVIDENCE, OCTOBER 25, 1798.

By Thomas Barclay, David Howell, and Egbert Benson, Commissioners appointed in pursuance of the 5th Article of the treaty of amity, commerce and navigation between His Britannic Majesty and the United States of America, finally to decide the question, "What river was truly intended, under the name of the River St. Croix, mentioned in the Treaty of Peace between His Majesty and the United States of America, and forming a part of the boundary therein described."

DECLARATION, OCTOBER 25, 1798.

We, the said Commissioners, having been sworn "impartially to examine and decide the said question according to such evidence as should respectively be laid before us on the part of the British Government and of the United States," and having heard the evidence which hath been laid before us by the Agent of His Majesty and the Agent of the United States respectively appointed and authorized to manage the business on behalf of the respective Governments, have decided, and hereby do decide:—The river hereinafter particularly described and mentioned to be the river truly intended under the name of the River St. Croix in the said Treaty of Peace, and forming a part of the boundary therein described, that is to say, the mouth of the said river is in Passamaquoddy Bay, at a point of land called Joe's Point, about one mile northward from the northern part of St. Andrew's Island, and in the latitude of 45° 5′ and 5″ north, and in the longitude of 67° 12′ and 30″ west, from the Royal Observatory at Greenwich in Great Britain, and 3° 54′ and 15″ east from Harvard College in the University of Cambridge, in the state of Massachusetts. And the course of the said river up from its source is northerly to

[1] From British & Foreign State Papers, Vol. I, p. 807.

a point of land called The Devil's Head, then turning the said point, is westerly to where it divides into two streams, the one coming from the westward and the other coming from the northward, having the Indian name Chiputnatecook, or Chipnitcook, as the same may be variously spelt, then up the said stream, so coming from the northward to its source, which is at a stake near a yellow birch-tree, hooped with iron, marked "S.T. and J.H., 1797," by Samuel Titcomb and John Harris, the surveyors employed to survey the above-mentioned stream coming from the northward. And the said river is designated on the map hereunto annexed and hereby referred to as further descriptive of it by the letters A, B, C, D, E, F, G, H, I, K and L, the letter A being at its said mouth, and the letter L being at its said source. And the course and distance of the said source from the island at the confluence of the above-mentioned two streams is as laid down on the said map, north 5° and about 15′ west by the magnet: about 48¼ miles.

In testimony whereof we have hereunto set our hands and seals at Providence, in the State of Rhode Island, the 25th day of October, in the year 1798.

(L.S.) THOS. BARCLAY. (L.S.) DAVID HOWELL.
(L.S.) EGBERT BENSON.

*Witness*, ED. WINSLOW, Secretary to the Commissioners.

## 1908.

### ARBITRATION CONVENTION BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA, TOGETHER WITH AN EXCHANGE OF NOTES AS TO THE INTERPRETATION OF OF ARTICLE 2.

*Signed at Washington, April 4, 1908.*

*(Ratifications exchanged at Washington, June 4, 1908.)*

His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India and the President of the United States of America, desiring in pursuance of the principles set forth in Articles 15-19 of the Convention for the pacific settlement of

international disputes, signed at The Hague July 29, 1899, to enter into negotiations for the conclusion of an Arbitration Convention, have named as their Plenipotentiaries, to wit:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, The Right Honourable James Bryce, O.M., and,

The President of the United States of America, Elihu Root, Secretary of State of the United States,

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1.

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two Contracting Parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th of July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honour of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE 2.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that such special agreements on the part of the United States will be made by the President of the United States by and with the advice and consent of the Senate thereof: His Majesty's Government reserving the right before concluding a special agreement in any matter affecting the interests of a self-governing Dominion of the British Empire to obtain the concurrence therein of the Government of that Dominion.

Such Agreements shall be binding only when confirmed by the two Governments by an Exchange of Notes.

ARTICLE 3.

The present Convention shall be ratified by His Britannic Majesty, and by the President of the United States of America by and with the advice and consent of the Senate thereof. The

ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications.

ARTICLE 4.

The present Convention is concluded for a period of five years, dating from the day of the exchange of its ratifications.

Done in duplicate at the City of Washington, this Fourth day of April, in the year 1908.

JAMES BRYCE.
ELIHU ROOT.

ANNEX.

WASHINGTON, April 4, 1908.

Sir,

I have the honour to inform you that I have been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to place on record on behalf of His Majesty's Government, with reference to the General Arbitration Treaty just signed by you and myself, that the final sentence of Article 2 has been inserted in order to reserve to both Governments the freedom of action secured to the United States' Government under their Constitution until any Agreement which may have been arrived at shall have been notified to be finally binding and operative by an exchange of notes. It is understood that this Treaty will not apply to existing pecuniary claims nor to the negotiation and conclusion of the special Treaty recently recommended by the International Waterways Commission or any other such Treaty for the settlement of questions connected with boundary waters.

I shall be obliged if you will inform me of the concurrence of the United States' Government in the terms of this note.

I have, etc.,
JAMES BRYCE.

The Honourable ELIHU ROOT,
Secretary of State.

DEPARTMENT OF STATE, WASHINGTON,
April 4, 1908.

Excellency,

In signing with you to-day a General Arbitration Treaty which has been negotiated between our respective Governments,

I have the honour to acknowledge and take due cognizance of your note of this day's date, whereby you inform me that you are instructed by His Majesty's Principal Secretary of State for Foreign Affairs to place on record, on behalf of His Majesty's Government, with reference to said Treaty, that the final sentence of Article 2 has been inserted in order to reserve to both Governments the freedom of action secured to the United States' Government under their Constitution until any Agreement which may have been arrived at shall have been notified to be finally binding and operative by an exchange of notes. The Government of the United States, in turn, declares that its understanding of the final sentence of Article 2 aforesaid is that which you set forth on behalf of His Majesty's Government.

I also take note of and concur in the understanding expressed in your note that the Treaty we have just signed will not apply to existing pecuniary claims nor to the negotiation and conclusion of the special Treaty recently recommended by the International Waterways Commission or any other such Treaty for the settlement of questions connected with boundary waters.

I have, etc.,

ELIHU ROOT.

His Excellency the Right Honourable
JAMES BRYCE, O.M.,
Etc., etc.

## 1913.

## AGREEMENT BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RENEWING FOR A FURTHER PERIOD OF FIVE YEARS THE ARBITRATION CONVENTION SIGNED AT WASHINGTON ON APRIL 4, 1908.

*("Treaty Series, No. 21, 1908.")*

*Signed at Washington, May 31, 1913.*

*(Ratifications exchanged at Washington, April 10, 1914.)*

*Agreement extending the Duration of the Arbitration Convention of April 4, 1908.*

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the United States of America, being desirous of extending the period of five years

during which the Arbitration Convention concluded between them on April 4, 1908, is to remain in force, which period is about to expire, have authorized the undersigned, to wit.: Sir Cecil Spring-Rice, His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary to the United States, and William Jennings Bryan, Secretary of State of the United States, to conclude the following articles:

ARTICLE 1.

The Convention of Arbitration of April 4, 1908, between the Government of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the Government of the United States of America, the duration of which by Article 4 thereof was fixed at a period of five years from the date of the exchange of ratifications, which period will terminate on June 4, 1913, is hereby extended and continued in force for a further period of five years from June 4, 1913.

ARTICLE 2.

The present Agreement shall be ratified by His Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and it shall become effective upon the date of the exchange of ratifications which shall take place at Washington as soon as possible.

Done in duplicate at Washington, this 31st day of May, one thousand nine hundred and thirteen.

(L.S.) CECIL SPRING-RICE.
(L.S.) WILLIAM JENNINGS BRYAN.

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